

(27,063 AND 27,064)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1918.

No. 977.

CHARLES GLEN COLLINS, APPELLANT,

*vs.*

FRANK M. MILLER, U. S. MARSHAL FOR THE EASTERN  
DISTRICT OF LOUISIANA.

No. 978.

TOM F. CARLISLE, BRITISH CONSUL GENERAL,  
APPELLANT,

*vs.*

CHARLES GLEN COLLINS.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES  
FOR THE EASTERN DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Caption .....	<i>a</i>	1
Petition for writ of <i>habeas corpus</i> .....	1	1
Writ of <i>habeas corpus</i> and marshal's return thereon.....	10	6
Order continuing case indefinitely.....	11	7
Return of Frank M. Miller, United States marshal.....	12	7
Record, exhibits, evidence, testimony and proceedings.....	17	11
In the matter of the extradition proceedings against Charles Glen Collins, Nos. 15927, 15928, and 15936 (con- solidated).....	17	11

	Original.	Print.
Deposition of Udham Partabrai .....	33	19
Lokumull Sahijram .....	38	22
John Dunstan Sherstan Baker.....	42	24
Arthur Fuller .....	45	26
List of exhibits and exhibits.....	47	27
Motion of Charles Glen Collins to dismiss (No. 15927)....	59	32
Affidavits, exhibits, and certificates.....	62	34
Deposition of Brijmohandal Lalla Ramkisonadas.....	78	42
Dattatraya Ramchandra .....	81	43
Arthur Fuller .....	82	44
List of exhibits and exhibits.....	83	44
Motion of Charles Glen Collins to dismiss (No. 15928)....	103	53
Proceedings before Judge Foster.....	106	55
Testimony of Charles Glen Collins.....	117	60
Affidavits, exhibits, and certificates.....	155	76
Deposition of Mahomedali Zainuli Ali Raza.....	161	79
Kalkhushroo Dadabhoj Rustomji Dady	163	80
Brijmohandal Lala Ramkisonadas.....	165	81
John Mathew Parreira.....	166	82
Proceedings before Judge Foster.....	179	88
Testimony of Charles Glen Collins.....	183	89
Motion of Charles Glen Collins to dismiss (No. 15936)....	200	99
Order of commitment (Nos. 15927 and 15928).....	202	100
Commitment.....	203	100
Order of commitment (No. 15936).....	204	101
Commitment.....	206	102
Certificate of Judge Foster.....	207	103
Judgment.....	210	105
Exhibit—Affidavit of C. Olive Bayley, &c.....	211	105
Petition and order for appeal (Collins).....	216	108
Assignment of errors (Collins).....	218	110
Bond of appeal (Collins).....	225	113
Præcipe for record (Collins).....	226	115
Petition of Tom F. Carlisle, British Consul General, and order for appeal.....	227	115
Assignment of errors by Tom F. Carlisle, British Consul Gen- eral.....	229	116
Bond of appeal (Carlisle).....	230	117
Clerk's certificate.....	231	118
Citations and service.....	232	118

*a* UNITED STATES OF AMERICA:

District Court of the United States, Eastern District of Louisiana,  
New Orleans Division.

No. 15959.

UNITED STATES ex Rel. CHARLES GLEN COLLINS, Appellant,  
versus

FRANK M. MILLER, United States Marshal, Appellee.

J. Zach Spearing, Esquire, for Appellant.  
Robert H. Marr, Esquire, for Appellee.

Appeal from the District Court of the United States for the Eastern  
District of Louisiana, New Orleans Division, to the Supreme Court  
of the United States, Returnable within Thirty (30) Days from  
the Eighth (8th) Day of March, 1919, at the City of Washing-  
ton, D. C.

1

*Petition.*

Filed January 8, 1919.

In the United States District Court for the Eastern District of  
Louisiana.

In the Matter of the Application of CHARLES GLEN COLLINS for Writs  
of Habeas Corpus and Certiorari.

To the United States District Court for the Eastern District of  
Louisiana:

The petition of Charles Glen Collins respectfully represents and  
shows to this Honorable Court, as follows:

1. Your petitioner is imprisoned and restrained of his liberty in  
the House of Detention in the City of New Orleans, in the State  
of Louisiana, in the custody of Frank M. Miller, United States  
Marshal for the Eastern District of Louisiana, by virtue of two cer-  
tain warrants dated the 31st day of October, 1918 and the 21st day  
of November, 1918, respectively, issued by Honorable Rufus E.  
Foster, United States District Judge for the Eastern District of  
Louisiana, copies of which warrants are hereto annexed, marked,  
respectively, "Exhibit A" and "Exhibit B," and made a part hereof.

2. On the 12th. day of November, 1917, your petitioner was ar-  
rested and taken into custody by the said Frank M. Miller, United  
States Marshal for the Eastern District of Louisiana, under and by

virtue of a warrant dated the 5th. day of November, 1917, issued by Honorable Sam M. Hitchcock, United States Commissioner for Southern District of New York, a copy of which warrant is also hereto annexed, marked "Exhibit C," and made a part hereof.

2 3. The said last mentioned warrant was issued by the said Commissioner upon a complaint purporting to have been made by C. Olive Bayley, Esquire, British Consul-General at the City of New York in the State of New York, before the said Commissioner, a copy of which complaint is also hereto annexed, marked "Exhibit D" and made a part hereof.

4. On the 18th day of October 1918, your petitioner was arrested and taken into custody by the said United States Marshal for the Eastern District of Louisiana, under and by virtue of a warrant dated the 18th. day of October 1918, issued by Honorable Rufus E. Foster, United States Judge for the Eastern District of Louisiana, a copy of which warrant is also hereto annexed, marked "Exhibit E," and made a part hereof.

5. The said last mentioned warrant was issued by the said Judge upon a complaint purporting to have been made by Thomas F. Carlisle, Esquire, British Consul-General at the City of New Orleans in the State of Louisiana, before the said Judge, a copy of which complaint is also hereto annexed, marked "Exhibit F," and made a part hereof.

6. On the 18th. day of October, 1918 and again on the 8th. day of November 1918, your petitioner was arrested and taken into custody by the said United States Marshal under and by virtue of two warrants dated the 18th. day of October 1918 and the 8th. day of November 1918 respectively, issued by Honorable Rufus E. Foster, United States Judge for the Eastern District of Louisiana, a copy of which warrants are also annexed hereto, marked "Exhibit C," and made a part hereof.

3 7. The last mentioned warrant was issued by the said Judge, upon complaints purporting to have been made by Thomas F. Carlisle, Esquire, British Consul-General at the City of New Orleans in the State of Louisiana, before the said Commissioner, a copy of which complaints are also hereto annexed, marked "Exhibit H," and made a part hereof.

8. On the 28th. day of October 1918, your petitioner was arraigned before the Honorable Rufus E. Foster, one of the Judges of this Court, and after a hearing held on the 28th. day of October 1918, and the 30th. day of October, 1918, was remanded to the custody of the said Marshal to await the action of the Secretary of State of the United States in the premises, and the said Honorable Rufus E. Foster then and there issued his warrant (Exhibit A) therefor to the said Marshal, and certified the evidence and the testimony taken before him to the said Secretary of State, and on the same day the said Marshal placed your petitioner in the custody of the Warden of the House of Detention in the City of New Orleans, in the State of Louisiana, where your petitioner now is.

9. On the 21st day of November, 1918, your petitioner was again arraigned before the Honorable Rufus E. Foster, one of the Judges



of this Court, and after a further hearing held on the 21st day of November, 1918, was remanded to the custody of the said Marshal to await the action of the Secretary of State of the United States in the premises, and the said Honorable Rufus E. Foster then  
4 and there issued his warrant (Exhibit B) therefor, to the said Marshal, and certified the evidence and the testimony taken before him to the said Secretary of State, and on the same day the said Marshal placed your petitioner in the custody of the Warden of the House of Detention in the City of New Orleans, in the State of Louisiana, where your petitioner now is.

10. Your petitioner's detention and imprisonment is illegal and unconstitutional, because:

(a) The aforesaid complaints are based upon certain Informations filed against your petitioner before the Esplanade Police Court of Bombay, India, charging your petitioner with having committed the offense of cheating under Section 420 of the Indian Penal Code, and that such offense is not an extraditable one under any extradition convention or treaty in force between the United States of America and the Kingdom of Great Britain.

(b) Your petitioner was denied by the Honorable Rufus E. Foster, at each of the aforesaid hearings, due process of law, in that he was denied the right and opportunity accorded him by the laws of the State of Louisiana, to make a voluntary declaration on his own behalf, and was also denied the right and opportunity accorded him by said laws to have other witnesses than himself examined upon his own behalf.

5 (c) Your petitioner was denied by the Honorable Rufus E. Foster, at each of said hearings, the right possessed by him under the Tenth Article of the Treaty between the United States of America and the Kingdom of Great Britain of August 9th, 1842, to the protection of the laws of the State of Louisiana, in which State your petitioner was arrested; and according to the laws of which State your petitioner had the right to make a voluntary declaration and to have witnesses examined in his own behalf before the committing Judge or Magistrate.

(d) Your petitioner was denied by the Honorable Rufus E. Foster, at each of said hearings, the protection of the Fifth Amendment to the Constitution of the United States of America, in that he has been deprived of liberty without due process of law, the treaty between the Kingdom of Great Britain and the United States of America expressly providing that no person shall be surrendered by either of the two Nations concerned except upon evidence of criminality "as, according to the laws of the place where the fugitive, or person so charged, shall be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed," and that according to the laws of the State of Louisiana, in which State your petitioner was arrested, as aforesaid, he was entitled to testify on his own behalf, and also was entitled to have witnesses examined in his own behalf before the committing Judge or Magistrate and that these rights were denied to your petitioner.

(e) No legal proof was submitted to, or produced before,

6 the Honorable Rufus E. Foster, of the commission by your petitioner of the crime or offense mentioned in the said complaints of Thomas F. Carlisle, Esquire, British Consul-General at the City of New Orleans, or of the crime or offense mentioned in the authenticating certificates attached to the documents forwarded to this Country from Bombay, India, or mentioned in the Informations filed before the said Esplanade Police Court, of Bombay, India, or in the certificates signed by the Chief Presidency Magistrate or the Acting Chief Presidency Magistrate of said Police Court, or of either or any of said crimes or offenses, or of any other crime or offense.

(f) No legal proof was submitted to, or produced before, the Honorable Rufus E. Foster, on which reasonable ground for a belief that your petitioner had committed the crime or offense mentioned in the said complaints of Thomas F. Carlisle, Esquire, British Consul-General at the City of New Orleans, or the crime or offense mentioned in the authenticating certificates attached to the documents forwarded to this Country from Bombay, India, or mentioned in the Informations filed before the said Esplanade Police Court of Bombay, India, or in the certificates signed by the Chief Presidency Magistrate or the Acting Chief Presidency Magistrate of said Police Court, or either or any of said crimes or offenses, or any other crime or offense, could be based.

7 (g) None of the evidence, papers and exhibits which were submitted to the Honorable Rufus E. Foster, over the objection and protest of your petitioner, were authenticated in accordance with the provisions of the statutes in such case made and provided, so as to entitle them to be received in evidence in the said proceeding.

(h) The transactions proved by the depositions that were admitted in evidence over the objection and protest of your petitioner are not criminal in their nature, according to the laws of the State of Louisiana, in which State your petitioner was arrested and they are not even criminal according to the laws of British India, but constitute commercial transactions in which credit was freely and voluntarily extended to your petitioner by each and every one of the merchants therein named.

(i) Even if said transactions are criminal according to the laws of British-India, they constitute, under said laws, the offense of cheating as prescribed by Section 420 of the Penal Code of India and the said offense is not an extraditable one under either of the three extradition treaties or conventions in force between the United States of America and the Kingdom of Great Britain.

(j) There is a fatal variance in each of the three sets of documents forwarded to this Country from Bombay, India, in that in each set of documents it appears that the charge brought against your petitioner is that of the offense of cheating under Section 420 of the Penal Code of India, while in the authenticated certificates of the Secretary for the Indian Government and of the Consul-General of the United States at Calcutta, India, the charges brought against your petitioner, are stated to have

8

been of an entirely different nature and character; namely, that of obtaining valuable property by false pretenses.

(k) There is a material and radical difference between the non-extraditable offense of cheating under Section 420 of the Penal Code of India, and the extraditable offense of obtaining property by false pretenses, in that the gist of the Indian offense of cheating is the failure to perform a promise of future payment where the intent not to perform is proved to have existed at the time of the making of the promise, while the gist of the extraditable offense of obtaining property by false pretenses is, according to the laws in force in the State of Louisiana, a false representation concerning a past or present fact and that a promise is not a pretense within the meaning of the Louisiana statute, even when the party making the same does not intend to keep it.

11. Your petitioner is advised and verily believes it to be true, that his imprisonment and detention aforesaid is illegal and unconstitutional and that the Honorable Rufus E. Foster was without jurisdiction to commit him to the custody of the Marshal to await the action of the Secretary of State, as aforesaid, for the reasons aforesaid, and that your petitioner has been, and is being deprived of his liberty without due process of law, in violation of the said treaty and also in violation of the Fifth Amendment to the Constitution of the United States of America.

Wherefore, in order that your petitioner may be relieved of his unlawful detention and imprisonment, your petitioner prays that writs of habeas corpus and certiorari may issue out of this Court, directed to the person or persons having your petitioner in custody and to the said Honorable Rufus E. Foster, commanding them, and each of them, to produce the body of your petitioner before this Court, and to return all the proceedings had against him to this Court, and to do and receive what shall then and there be considered in the matter.

No previous application has been made for the said writs.

(Signed)

J. ZACH SPEARING,

*Attorney for Petitioner.*

(Signed)

CHARLES GLEN COLLINS.

STATE OF LOUISIANA,

*City of New Orleans, ss:*

Before the subscriber, a Notary Public in and for said City and State, personally appeared Charles Glen Collins, who being duly sworn, deposes and says:

That he is the petitioner herein; that he has read, and knows the contents of the foregoing petition, and that the same is true of his own knowledge, except as to the matter therein stated to be alleged upon information and belief, and as to that matter he believes it to be true.

(Signed)

CHARLES GLEN COLLINS.

Sworn to before me, this 27th day of December, 1918.

[SEAL.]

(Signed)

J. ZACH SPEARING,

*Notary Public.*

To the Clerk:

Let a writ issue as prayed for, returnable Saturday, January 11th, at 10 A. M.

Given this 8th day of January, 1919.

(Signed)

W. I. GRUBB,

*District Judge.*

10

*Writ of Habeas Corpus.*

Issued January 8, 1919.

UNITED STATES OF AMERICA:

District Court of the United States, Eastern District of Louisiana.

No. 15959.

UNITED STATES ex Rel. CHARLES GLEN COLLINS

vs.

FRANK M. MILLER, U. S. Marshal.

The President of the United States to Frank M. Miller, United States Marshal for the Eastern District of Louisiana, Greeting:

You are hereby commanded to bring and produce before this Court on Saturday, the 11th day of January 1919, at 10 a. m. the body of Charles Glen Collins, now in your custody in the House of Detention in the City of New Orleans, together with the cause of his caption and detention; there to abide what shall be awarded by the Court in the premises, and herein fail not under penalty of the law.

Witness, the Honorable Rufus D. Foster, Judge of said Court, at New Orleans, La., this 8th day of January in the year of our Lord one thousand nine hundred and nineteen.

[SEAL.]

(Signed)

H. J. CARTER, *Clerk.*

Clerk's Office.

A true copy.

(Signed)

H. J. CARTER, *Clerk.*

New Orleans, La., January 8, 1919.

*Marshal's Return.*

Filed February 10, 1919.

Received by U. S. Marshal, New Orleans, La., Jan. 8/18, and on the same day month and year I served the original of which this is a certified copy, on Frank M. Miller, United States Marshal, for the Eastern District of Louisiana, by handing same to him in person at New Orleans, La.

(Signed)

FRANK M. MILLER,  
U. S. Marshal.  
SAM W. TAYLOR,  
Chief Deputy.

11 *Order Continuing Case Indefinitely.*

Extract from the Minutes, November Term, 1918.

New Orleans, Saturday, January 11th, 1919.

Court met pursuant to adjournment.

Present: Hon. Rufus E. Foster, Judge.

" Hon. W. I. Grubb, Judge.

No. 15959.

UNITED STATES ex Rel. CHARLES GLEN COLLINS

vs.

FRANK M. MILLER, United States Marshal.

Proceedings Before Hon. W. I. Grubb, District Judge.

By agreement of counsel for the respective parties;

It is ordered by the Court that the application for a writ of habeas corpus fixed for trial this day, be continued indefinitely.

12 *Return of Frank M. Miller, United States Marshal.*

Filed Feb. 15, 1919.

In the United States District Court for the Eastern District of Louisiana.

In the Matter of the Application of CHARLES GLEN COLLINS for Writs of Habeas Corpus and Certiorari.

Now, comes Frank M. Miller, United States Marshal for the Eastern District of Louisiana, who, by way of return to the writs herein applied for, says:

## 1.

That Charles Glen Collins is held by him in pursuance of judgments of the Honorable Rufus E. Foster, Judge of this Court, which said judgments read as follows:

"I find that the evidence produced against said Charles Glen Collins is sufficient in law to justify his commitment on charges of having obtained property by false pretenses.

It is further ordered, adjudged and decreed that said Charles Glen *Foster*, be committed to the House of Detention to be held for extradition to British India for trial on charges pending against him in the Chief Presidency Magistrate's Court at Bombay India, to abide the order of the President of the United States until the further orders of the Court."

That the said judgments were based upon findings on three separate affidavits charging said Collins with being a fugitive from the justice of India upon charges of obtaining property by false pretenses, and upon which said judgments warrants were issued and placed in the hands of your respondent, as recited by relator in his application for writs.

## 2.

Now, your respondent shows that the detention of relator is legal and constitutional, and respondent shows that, in each of said three cases, applications were made for the extradition of said  
13 Colonel Charles Glen Collins on the ground that, in each of said cases, he stood charged in India with the crime of obtaining valuable property by false pretenses.

## 3.

Now, your respondent further shows that, in each of said cases, it is certified by A. H. Grant, Secretary to the Government of India in the Foreign Political Department, that the relator is:

"Charged with the crime of obtaining valuable property by false pretenses, alleged to have been committed in Bombay."

That, as to one of said charges, A. H. S. Aston, Chief Magistrate certified:

"Whereas, one Lieutenant-Colonel Charles Glen Collins stands charged with the offense of obtaining property by false pretenses under Section 420 of the Indian Penal Code, within the jurisdiction of my Court, in respect of jewelry valued at about two thousand pounds, the property of the firm of Ganeshilall & Sons, jewelers of Calcutta."

and said A. H. S. Aston, Chief Presidency Magistrate, as to another of said charges, certifies:

"Whereas, one Lieutenant-Colonel Charles Glen Collins stands charged with the offence of obtaining property by false pretenses at Bombay, under Section 420 of the Indian Penal Code, with respect

of a pearl button valued at seventeen hundred pounds, the property of Mahomed Helo Zaimel Ali Raa."

4.

And, your respondent further shows that the evidence deduced on the trial of each of these three several cases discloses a state of facts constituting crime, both under the laws of Louisiana, and under the laws of British India.

14

5.

Your respondent further shows that relator at on time offered to make any voluntary statement, but offered himself as a witness on his own behalf; and respondent shows that, in two of said cases, after having been sworn as a witness, the Judge declined to hear any evidence in defense of the charge, holding:

"No question of defense can come before this Court in an extradition matter; that is a question for the Court when the case is tried in the country that requests his extradition, the only question here is the question as to the identity of the accused, and the question whether or not he was in India at the time this alleged offence is supposed to have been committed. There are two things the defendant can show, either he is not the man wanted, or that he was not there at the time the offence is supposed to have been committed. Now, he was there at the time, and he admits he is the man."

To which ruling of the Court, Counsel for relator replied, "There is no doubt about that."

6.

And, respondent further shows that the other evidence offered by relator in his own behalf would not have been admissible, even had relator been on trial for the commission of the offence charged.

7.

And, your respondent further shows that, in the Raza case, said Collins offered himself as a witness in his own behalf and was duly sworn, examined, cross-examined and re-examined.

8.

And, your respondent further shows that the proof submitted was legal and competent, and that the sufficiency of said proof cannot be inquired into on habeas corpus.

15

9.

And, your respondent further shows that all the documents admitted in evidence by said Honorable Rufus E. Foster were authenticated, in accordance with the provision of law.

10.

And, your respondent further shows that the transactions disclosed by the evidence in each of said three several cases, constituted the obtaining of articles by false pretenses, and discloses a state of facts punishable as crime, both by the law of Louisiana and by the law of British India, as abundantly shown by the testimony of relator, examined as witness in his own behalf.

11.

And, your respondent further shows that there is no variance in the documents forwarded from Bombay, as hereinabove set out; in two of said cases, the charge is distinctly stated as that of obtaining property by false pretenses, which statement is contained both in the certificate of the Magistrate, and in the request for extradition; that, in the other of said cases, the affidavit is for cheating under the Penal Code of India, Section 420, and the request is for extradition to stand trial on a charge of obtaining by false pretenses. And, your respondent shows that, in said case last mentioned, the evidence discloses an obtaining by false pretenses.

12.

And, your respondent further shows that, in all three cases, the evidence disclosed the commission in British India of an extraditable offence.

16       Wherefore, the foregoing considered, respondent prays that the writs herein applied for be refused at relator's costs.

All other orders necessary and proper in the premises are also prayed for.

(Signed)

ROBERT H. MARR,  
*For Respondent.*



- 17 *Record, Exhibits, Evidence, Testimony, and Proceedings in the Matter of the Extradition Proceedings against Charles Glen Collins, Nos. 15927, 15928, and 15936 (Consolidated), Filed February 21, 1919, before Hon. W. I. Grubb, United States District Judge.*

UNITED STATES OF AMERICA:

District Court of the United States, Eastern District of Louisiana,  
New Orleans Division.

Nos. 15927, 15928, and 15936 (Consolidated).

In the Matter of Extradition Proceedings versus CHARLES GLEN  
COLLINS.

Record, Exhibits and Testimony Transmitted by Hon. Rufus E. Foster, Judge of the District Court of the United States for the Eastern District of Louisiana, to the Honorable Secretary of State of the United States of America, Department of State, Washington, D. C.

- 18 AFFIDAVITS OF COMPLAINANT, EXHIBITS, CERTIFICATES, AND  
DEPOSITION- OF WITNESSES.

*Affidavit of Gerard M. Loly, British Vice Consul.*

Filed Oct. 16, 1918.

UNITED STATES OF AMERICA,  
*State of Louisiana, Parish of Orleans:*

Before me, the undersigned authority, personally came and appeared Gerard M. Loly, who being by me first duly sworn, deposed and said that he is British Vice Consul at the City of New Orleans; that Charles Glen Collins, having in British India committed the crime of obtaining goods by false pretenses, stands charged in the Chief Presidency Magistrate's Court, at Bombay, India, with having, on or about February 7th, 1917, fraudulently, falsely and feloniously pretended to the commercial firm of Pohoomul Bros. that he, the said Collins, was a wealthy man; that he, the said Collins, then and there had a right to draw a draft for five thousand pounds on Messrs. E. Curtice & Company, 8 Clarges Street, London; Whereas in truth and in fact, the said Collins was not then and there a wealthy man, but on the contrary was a bankrupt; that he, the said Collins, had no right to draw a draft for five thousand pounds or for any amount on said Messrs. E. Curtice & Company; that by means of said false, fraudulent and felonious pretenses, said Collins then and there obtained from said commercial firm of Pohoomul Bros. a pearl neck-

lace, valued at seventy-five thousand rupees; of the property of the said commercial firm of Pohoomul Bros.; that the said false and fraudulent pretenses were, to the knowledge of said Collins, at the time of making same false and fraudulent; and affiant further

19 says that said Collins is presently within the City of New Orleans, and within the jurisdiction of this Honorable Court, and that this affidavit is made in behalf of the British Government, for the purpose of having returned to India for trial, the said Collins.

Affiant further says that Thomas F. Carlisle, the British Consul General at this Port, is confined to his home by illness, and therefore cannot make this affidavit, and that affiant makes the same upon instructions received from the said Thomas F. Carlisle.

(Signed)

GERARD M. LOLY.

Sworn to and subscribed before me this 16 day of October, 1918.

(Signed)

RUFUS E. FOSTER, *Judge*.

20 *Affidavit of Tom F. Carlisle, British Consul General.*

Filed Oct. 26, 1918.

UNITED STATES OF AMERICA,

*State of Louisiana, Parish of Orleans,*

*City of New Orleans:*

Before me, the undersigned authority, personally came and appeared Tom F. Carlisle, who being by me first duly sworn, deposed and said that he is British Consul General at the City of New Orleans; that he is informed and being so informed, verily believes that Charles Glen Collins having committed the crime of obtaining property by false pretenses, stands charged in the Chief Presidency Magistrate's Court at Bombay, India, with having, on or about February 7th, 1917, fraudulently, feloniously and falsely pretended to the commercial firm of Pohoomul Bros. that he, the said Collins, was a wealthy man; that he, the said Collins, then and there had a right to draw a draft for Five thousand Pounds on Messrs. E. Curtice & Company, 8 Clarges Street, London, and that in consequence thereof, said draft would be paid; Whereas, in truth and in fact, the said Collins was not then and there a wealthy man, but on the contrary, was a bankrupt; that he, the said Collins, had not the right to draw a draft for five thousand Pounds on said Messrs. E. Curtice & Company, and then and there well knew that said draft would not be paid; that by means of said false, fraudulent and felonious pretences, the said Collins then and there obtained from said commercial firm of Pohoomul Bros. a pearl necklace valued at seventy-five thousand rupees, of the property of the said commercial firm

21 of Pohoomul Bros.; that the said false and fraudulent pretences were, to the knowledge of said Collins at the time of making them false and fraudulent, and affiant further says that said Collins is presently within the City of New Orleans, and within the

jurisdiction of this Honorable Court, and that this affidavit is made in behalf of the British Government, for the purpose of having returned to India for trial, the said Collins.

And affiant further states that the source of his information and belief, upon which information and belief this affidavit is made, is as follows:

The evidence taken on said charge in the Esplanade Police Court, Bombay, duly certified to under the provisions of Section 5271 of the Revised Statutes of the United States; the evidence taken before Sir John Dickinson, Knight, Bow Street Police Court, London, duly certified to under Section 5271 of the Revised Statutes of the United States; the evidence taken before Alexander Stuart Duff Thompson, at Glasgow, salaried sheriff of the Sheriffdom of Lanarkshire, duly certified to under Section 5271 of the Revised Statutes of the United States, all of which said evidence is hereunto annexed as part hereof; and a telegram in Code from the British Secretary of State, for Foreign Affairs, received by the British Consul General at New York on November 3rd, 1917, a Code Translation whereof is hereto annexed as part hereof.

(Signed)

T. F. CARLISLE.

Sworn to and subscribed before me this 26 day of October, 1918.

(Signed)

RUFUS E. FOSTER, *Judge*.

22     *Translation of Telegram in Code from the British Secretary of State for Foreign Affairs, Received by the British Consul General at New York on November 3rd, 1917.*

No. 738.

Following telegram has been received from Governor of Bombay October 25th communicated by Secretary of State for India Begins. No. 8237. A warrant has been issued in this country for the arrest of the undermentioned person for the undermentioned offence. Apply for provisional arrest with a view to extradition. Necessary documents will be sent as soon as possible through regular channels. Please acknowledge receipt of this by cable and also telegraph when accused has been arrested. Charles G. Collins till recently British army officer obtaining by false pretences pearl necklace valued 75,000 rupees from Pohoomull Brothers at Bombay February 2nd last representing himself Lieutenant Colonel attached for duty to How Battalion Royal Marines on furlough. Left Bombay for Vancouver February 27th leaving draft dishonoured on presentation. About 6 feet holds himself upright athletic complexion florid hair scanty approximate weight about 13 or 14 stone recently at Quebec whence police state left October 1st for Ritz Carlton Hotel New York. Messrs. Pinkerton are understood to have been communicated with already. Person able to identify accused will be sent Ends.

Please take necessary action. Any further enquiry necessary should be addressed to Governor of Bombay direct. Secretary of State for India presumes application will be made to Emigration au-

thorities if action by them suitable also that if person to identify not needed, Governor of Bombay will be informed.

BALFOUR.

23 I hereby certify that the above is a true and exact translation of an original telegram in British Government Code from the British Secretary of State for Foreign Affairs to the British Consul General New York which is now in my possession.

[SEAL.]

(Signed)

T. F. CARLISLE,

*H. B. M. Consul General.*

New Orleans, December 17th, 1917.

24 *Certificate of James A. Smith, Consul-General for the United State at Calcutta, India.*

Filed — — —.

Certificate.

I, James A. Smith, Consul-General for the United States in Calcutta, hereby certify that the annexed papers being (1) a warrant of arrest, and (2) copies of prima facie proceedings in the Court of the Chief Presidency Magistrate, Bombay, proposed to be used upon an application for the extradition from the United States of Lieutenant-Colonel C. G. Collins, late of the British Army, charged with the crime of obtaining valuable property by false pretences alleged to have been committed in Bombay, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of British India, as required by the Act of Congress of August 3rd, 1882.

[SEAL.]

(Signed)

JAS. A. SMITH,

*Consul General of the United States*

*of America at Calcutta, India.*

Calcutta, April 8th, 1918.

25 *Certificate of A. H. Grant, Secretary to the Government of India in the Foreign and Political Department.*

Filed Oct. 30, 1918.

Certificate.

In forwarding the annexed papers to be used in support of an application for the surrender from the United States of Lieutenant Colonel C. G. Collins, late of the British Army, charged with the crime of obtaining valuable property by false pretences, committed in British India, I hereby certify that, to the best of my knowledge and belief, the signatures "Chunilal H. Setalvad" on the warrant of arrest, and on the information and depositions on which the warrant was granted, are the signatures of Chunilal Harilal Setalvad, a Magis-

trate in British India, having authority to issue and receive the same, and I further certify that such documents so signed by a Magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Secretary to Government and sealed with his official seal, would be received in evidence for similar purposes in the Tribunals of British India.

[SEAL.]

(Signed)

A. H. GRANT,

*Secretary to the Government of India in  
the Foreign and Political Department.*

Simla, the 2nd April, 1918.

26

Case No. 533/W. of 1917.

No. 5958 of 1917.

To Arthur Fuller, Inspector, Bombay City Police Force, Bombay:

Whereas one Lieutenant Colonel Charles G. Collins stands charged with the offence of cheating at Bombay under Section 420 Indian Penal Code in respect of a pearl necklace valued at Rs. 75,000 the property of the firm of Pohoomull Brothers Jewellers of Bombay.

You are hereby directed to arrest the said Lieutenant Colonel Charles G. Collins and to produce him at the Chief Presidency Magistrate's Court at Bombay before such Presidency Magistrate as may then be present.

Herein fail not.

Dated this 11th day of October 1917.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,

*Ag. Chief Presidency Magistrate, Bombay.*

27 In the Court of the Chief Presidency Magistrate, Bombay.

In re UDHARAM PATARBAGH, Manager of the Firm of Pohoomull Brothers, Jewellers, of Bombay, Complainant,

vs.

Lt. Colonel CHARLES G. COLLINS, Accused.

Charge: Cheating, Section 420, I. P. Code.

I the undersigned being the Ag. Chief Presidency Magistrate of Bombay hereby certify that the typed matter contained in the foregoing pages of paper is a true copy of the information of Udharam Patarbagh Manager of the firm of Pohoomull Brothers, Bombay, taken on solemn affirmation before me on the 22nd day of September, 1917, and of the depositions of the said Udharam Partabrai (or Patarbagh), Lokumull Sahijram, John Dunston Sherston Baker, in support thereof sworn and taken before me on the 11th day of October 1917 and of the further application made by Udharam Partabrai and of my order thereon and of the deposition of Arthur Fuller in support thereof sworn and taken before me on the 19th

day of October 1917 and of the Lists of Exhibits and of exhibits thereto marked A, B, C, D, E, F, G and H and of my certificate.

Given under my hand and the seal of the Court this 19th day of October, 1917.

[SEAL.] (Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

28

In the Esplanade Police Court of Bombay.

UDHARAM PATARBAGH, Complainant,

VS.

Lieutenant Colonel CHARLES G. COLLINS, Accused.

The information of Udharam Patarbagh of Bombay Hindoo Inhabitant the Manager of Pohoomull Brothers a firm carrying on business at Apollo Bunde Bombay and elsewhere solemnly affirm this — day of September 1917 before the Presidency Magistrate Bombay, Shew-th:

1. That your complainant is the manager in Bombay of Pohoomull Brothers a firm of jewellers, silk merchants and curio dealers who carry on business inter alia at Apollo Bunder Bombay.

2. The accused described himself as Lieut. Col. Charles G. Collins of the Howe Battalion, Royal Naval Division and it has been ascertained that he is now resident at Chateau Frontenac Quebec and it is believed he is attached to the Ottawa Militia.

3. On or about the 20th December 1916 the accused in company with one Mrs. Olsan, and a Mrs. Elsie Muntz believed to be a divorcee and the fiancée of the accused were staying at the Taj Mahal Hotel Bombay and they visited your complainant's shop and made some small purchases for which they paid cash.

4. On the 23rd December 1916 the accused purchased a silk rug from your complainant for Rs. 650 and paid for it by a cheque on Thomas Cook & Son, Bombay.

5. About this time the accused and Mrs. Olsan and Mrs. Muntz left the Taj Mahal Hotel and went to reside in a bungalow 29 in Harknes Road Malbar Hill.

6. A few days later the accused and Mrs. Muntz called at your complainant's shop and asked to see some pearl necklaces of the value of about Rs. 75,000. An appointment was made at the accused's residence to which your complainant was to take some necklaces and this was done and Mrs. Muntz selected a pearl necklace of the value of Rs. 72,250 but it was not then purchased.

7. On the 30th January 1917 the accused bought a pearl ring for Rs. 1000 for which he paid. On that day the accused and Mrs. Muntz said they wanted thirteen pearls in the necklace altered. It was not possible to alter the required number of pearls but seven were altered bringing up the value of the necklace to Rs. 75,250.

8. On the 2nd February 1917 the accused asked your complainant to call at his bungalow and Mr. Lokoomull Sahigram a member of

the firm of Pohoomull Brothers and Tojoomul Dingomull a manager of the firm attended at the bungalow.

9. The accused then purchased the necklace for Rs. 75,000 and promised to pay for the same. The accused gave your complainant's firm a draft for £5000 on Messrs. E. Curtice and Company 8 Clarges Street London in payment. Your complainant says that the accused well knew that the said draft would not be paid.

10. Your complainant's firm were not then satisfied with the said draft and did not give delivery of the necklace and on the 3rd February 1917 the accused in company with the said Tejoomull Dingomull had an interview with Mr. Brent the Manager of the International Bank, Bombay. Mr. Brent suggested that the accused should wire to Messrs. E. Curtice & Company to pay £5000 to the International Bank's office in London and Mr. Brent wired to that office to receive the money.

11. The accused subsequently informed your complainant's firm that he had cabled accordingly to Messrs. E. Curtice & Company and that the amount of the draft would be duly paid to the International Bank by Messrs. E. Curtice and Company on receipt of the said telegram.

12. On the 7th February 1917 the said Mrs. Muntz on behalf of the accused called at your complainant's shop and took delivery of the said necklace.

13. Your complainant's firm had certain urgent payments to make of a considerable amount and therefore on the 10th February 1917 they asked the accused whether he would pay them Rs. 15,000 on account of the said draft, of which the proceeds had not then been received by them. The accused gave them a cheque for Rs. 15,000 on Thomas Cook and Son and it was arranged that your complainant's firm should repay that amount to the accused when the proceeds of the draft had been received in Bombay. The said cheque for Rs. 15,000 was duly honoured.

14. On the 22nd February 1917 your complainant's firm received a letter from the International Bank stating that their London Office had received no moneys from Messrs. E. Curtice and Company.

15. On the 23rd February 1917 the accused was interviewed and stated that he had instructed his London Agents to sell some shares but that they had advised against his doing so and had suggested a loan instead.

16. On the 25th February 1917 the accused was again interviewed by Sahijram Khamul Lokoomull Sahijram and Tejoomull Dingomull and he stated he could sell his shares but that it would take a month to do so and he proposed therefore to give them a draft for £4000 on the firm of William Collins Sons and Company of which he stated he was a partner. The accused represented that his brother was another partner and would not refuse a draft from him.

17. On this representation your complainant's firm returned to the accused the draft on Messrs. E. Curtice and Company and accepted a draft drawn by the accused on William Collins Sons and Company of London and Glasgow. Your complainant's firm agreed not to present the draft until the 15th April 1917.



18. On the 27th February 1917 the accused with Mrs. Olsan and Mrs. Muntz left India for Colombo and thence travelled Eastward to America.

31 19. On the 21st April 1917 your complainant was advised that the draft for £4000 had been refused with the answer "No authority to draw." The said draft has been presented twice but has not been paid. Your complainant says that the accused well knew that it would not be paid.

20. Your complainant submits that the accused deceived your complainant and thereby dishonestly induced your complainant's firm to deliver the said necklace to Mrs. Muntz on his behalf upon a promise to pay for the same, which promise the accused had no intention of performing, that the accused gave your complainant a worthless draft for £5000 on Messrs. E. Curtice and Company well knowing the same to be worthless and that the accused gave the draft for £4000 on William Collins Sons and Company well knowing that the same was worthless.

Your Complainant therefore submits that the accused has committed the offence of cheating under S. 420 of the Indian Penal Code and prays that he may be charged and dealt with according to law.

(Sd.)

UDHARAM PARTABRAI.

Mr. BAKER,

*For Complainant.*

Taken on solemn affirmation before me—

(Sd.)

CHUNILAL H. SETALVAD,

*Ag. Chief Presidency Magistrate, Bombay.*

22-9-17.

32 In order that complainant may produce witnesses to enable me to act under the Fugitive Offenders' Act adjourned to

25-9-17.

(Sd.)

CHUNILAL H. SETALVED,

*Ag. Chief Presidency Magistrate.*

Further adjou-ned for orders to 11-10-17.

(Initialled)

C. H. S.

25-9-17.

True copy.

[SEAL.]

(Signed) CHUNILAL H. SETALVED,

*Ag. Chief Presidency Magistrate, Bombay.*



33 547-2,000,000-6-14—(12)—st. Civ. A. 27 e.

## EXHIBIT No. —.

*Deposition of Witness No. 1 for the Prosecution.*

I do hereby on solemn affirmation state that—

My name is Udhamram

Religion Hindoo

Age about 21

Residence Carnac Bridge

Father's name Partabrai

Caste Katri

Occupation Manager of Pohoomull  
Brothers

District—

## Examination-in-chief:

The accused Lieutenant Colonel Collins has absconded out of British India and according to my information he is at present in Quebec Canada. I am Manager of Pohoomull Brothers doing business in Bombay and other places as jewellers and in silk and curios. I am the Manager of the Apollo Bunder shop. I know the accused Lieutenant Colonel Charles G. Collins. I first saw him on or about 20th December 1916 when he visited our shop at Apollo Bunder. The accused talked a good deal about himself. He said that he was attached to the Howe Battalion and that he was a Royal Naval Officer. He said he was on six months' leave. There was one Mrs. Olsen with him and Mrs. L. C. Muntz. The accused told me that Mrs. Muntz was his fiancée. The accused told me that they were all staying at the Taj Mahal Hotel which is a first class Hotel in Bombay. Accused made some purchases worth about 200 or 300 Rs. and paid for them. On or about 23rd December 1916 the accused accompanied by Mrs. Muntz came to me at our Apollo Bunder shop and bought one silk rug for Rs. 650 and the *and* 34 *the* accused gave a cheque on Messrs. Thomas Cook and Sons and the cheque was cashed. About this time the accused and the two ladies changed their residence from Taj Mahal Hotel to Harkness Road, Malabar Hill a locality where rich persons reside. A few days afterwards the accused and Mrs. Muntz called at our Apollo Bunder shop and they said that they wanted to see some pearl necklaces of the value of about Rs. 75000 each. I did not show any necklace that day but I made an appointment to take the necklaces to their residence. A few days afterward Mr. Tajamull our general Manager and Mr. Lokhumull one of the proprietors went to the accused's bungalow with two or three necklaces. Then they returned and gave me back the necklaces. On 30th January last the accused Colonel Collins and Mr. Muntz came in our shop and bought a pearl ring for 1000 Rs. and the accused gave a cheque which was cashed. On this occasion Mrs. Muntz said in the presence of the accused that the particular necklace which they saw at their residence may be shown to them again and I showed it. The value of that necklace was 72250 Rs. Mrs. Muntz said that she wanted

13 pearls to be altered from that necklace and that she would not mind if it cost a few hundred pounds more. We got 6 or 7 pearls altered and the value of the necklace became 75000 Rs. The necklace was ready on 2nd February 1917. I or Mr. Tejumull telephoned to the accused saying that the pearl necklace was ready and he replied saying that he would call at the shop at 1 P. M. Subsequently that day I got a message from him that the pearl necklace should be taken over to his place at Malabar Hill. Mr. Lokomull Lokhumull and Mr. Tejoomull took the necklace to the residence of the accused. I did not go. Lokhumull and Tejumull returned with the necklace and they brought a draft for 5000£, drawn by the accused on Messrs. E. Curtice of 8 Clarges Street, London W. I produce the draft original as well as duplicate put in and marked Ex. A. One of the senior partner- Mr. Sahijram one of the proprietors of our firm was not satisfied with the draft so he went to the manager of the International Banking Co. with the draft. On his

35 return and under his advice I telephoned to the accused asking him to see us the next day. The following day the accused came to our shop and he went with Tejumull to see the Manager of the International Bank. From that Bank Tejumull telephoned to me to take the draft Ex. A to that Bank and I did so. I went inside to the Manager of the Bank where Tejumull and the accused were also seated. The Manager Mr. Bent suggested that the accused should wire to his agents E. Curtice & Co. to pay 5000£ to the Manager of the International Bank in London. The accused said that that course would be very satisfactory to him and that he was going to wire to his agent to that effect. The accused also assured us that the amount will be paid immediately by E. Curtice & Co. to the Manager International Bank London on the receipt of his telegram. Sometime afterwards accused said he had sent the telegram. After two or three days the accused accompanied by Mrs. Olsan and Mrs. Muntz came to our shop in the evening. Mrs. Olsan said that she also wanted to buy a pearl necklace worth about Rs. 75000 and we showed them one necklace worth about 6000 Rs. They did not buy it. On or about 7th February 1917 the accused came to our shop with Mrs. Muntz and asked for the delivery of the first necklace. Lokumull, Trjumull and myself consulted whether the necklace should be given as no money was paid. Accused assured us that he had sent a telegram as arranged and that the amount will be paid by E. Curtice & Co. to the Manager International Bank, London. Trusting to these assurances we gave the accused the necklace. Then on or about 10th February we had some drafts to meet. Lokumull and Tejumull went to the accused's house and Lokumull gave me a cheque for 15000 Rs. drawn by the accused on Messrs. Thomas Cook & Sons. Lokumull told me that we would have to return 15000 Rs. to accused on the Manager of the International Bank receiving 5000£ on our behalf. That cheque for Rs. 15000 was cashed some

36 days late. On 22nd February we got a letter from the International Banking Corporation saying that nothing was received from E. Curtice & Co. I produce that letter put in and marked Ex. B. Upon that Lokumull and Tejumull went to the

accused's bungalow and they saw and gave me certain information. On 25th February last they gave me a draft for 4000£. drawn by the accused on Messrs. William Collin and Sons Glasgow. On 27th February the accused and the two ladies left Bombay by P. & O. Co.'s steamer for Columbo. Accused told me that they would go from here to Colombo then to Shanghai and then to London. The accused told me that the draft for 4000£. should be presented on 15th April and we sent the draft for collection to the International Bank Bombay. On 20th April we received a letter from the International Banking Corporation stating that the draft in question was refused payment with the answer "no authority to draw." I produce that letter put in and marked Ex. C. We then telegraphed to our agent at Yokohoma for arranging with the accused for payment. We received this telegram dated 21st April from the accused from Yokohoma saying to represent the draft 60 days' sight delay unavoidable. The telegram put in and marked Ex. D. Then we caused inquiries to be made and found that the accused was touching Vancouver so we sent a telegram to him there but no reply was received. The International Banking Corporation thrice presented the draft for payment but it was not honoured. On 27th. June we received this letter from the Bank put in and marked Ex. E saying that "Collins noted nonpayment." Then we instructed our Solicitors Messrs. Little & Co. to communicate with their London correspondents and I produce the reply which my Solicitors got from Rawle Johnstone & Co. Solicitors put in and marked Ex. F. We have also received information from reliable sources to the effect that Messrs. E. Curtice & Co. are not Bankers but only boarding house keepers and the accused is an undischarged bankrupt.

I have no reason to disbelieve this information. The draft of 4000£. in question is in London with the International Banking Corporation at present. I say the accused has cheated us.

37 If he had not given us the assurances. I have spoken of we would not have given the necklace to him. The accused is tall, clean shaven about 40 years of age. He is fair. I will be able to identify him and will be able to identify the necklace in question. I will also be able to identify most of the pearls even if the necklace is broken up. It was a single row necklace. The transaction is put down in our book.

(Sd.)

UDHARAM PARTABRAI.

Taken on solemn affirmation this 11th day of October 1917,  
Before me—

(Sd.)

CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

True Copy.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

## EXHIBIT No. —.

*Deposition of Witness No. II for the Prosecution.*

I do hereby on solemn affirmation state that—

My name is Lokumull.

Religion Hindoo.

Age about 27.

Residencee Carnac Bunder.

Father's name Sahijram.

Caste Khatri.

Occupation Merchant.

District ———.

## Examination-in-chief :

I am one of the partners of Messrs. Pohoomull Brothers doing business in jewellery, silk and curios at Bombay and various other places. One of our shops is at Apollo Bunder Fort in Bombay. The accused Lieutenant Colonel Collins absconded from British India. According to our information he is at Quebec Canada. I first met him about the middle of January last. I accompanied by Tejumull our general Manager and my father Sehejram went to the accused at his bungalow at Malabar Hill with some pearl necklaces. There the accused and one Mrs. Muntz examined the necklaces and selected one necklace worth about 72258 Rs. But they did not buy it at the time though they said that they liked it the best. On 30th January last Mrs. Muntz and the accused came to our Apollo Bunder shop and they purchased one pearl ring worth 1000 Rs. and paid for it by a cheque which was cashed. They looked at the same necklace. Mrs. Muntz said that she wanted to have 13 pears changed from that necklace. Accused told me that Mrs. Muntz was his fiancée. We altered 7 pearls and it was not possible to alter the 13 pearls and the price increased by 3000 Rs. The necklace was ready on 2nd February. I and Tejumull took that necklace and went to the accused's bungalow at Malabar Hill and there we saw the accused and Mrs. Muntz. Mrs. Muntz said in the presence of the accused that she was going to marry him (the accused) and the necklace was going to be a Wedding Present to her from him. The accused examined the necklace and said he purchased it. The accused drew the original and duplicate drafts Ex. A on E. Curtice & Co. but we were not satisfied with the draft and we wanted to consult with my father so we brought back the drafts and the necklace. The last witness Udhamam knew all this. My father was not satisfied with the drafts so we went and consulted our Bank i. e. the Manager of the International Banking Co. Ltd., and he advised use to get the money by telegram and we agreed. The next day Tejumull telephoned to the accused to come and see our Bank Manager. That day the accused showed me a telegram which he was sending to St. Lewis saying cable 2500 dollars more available if needed. Accused told Tejumull in my presence to send telegram to the telegraph office and it was done. Reading that telegram accused impressed us with the fact that accused was a rich

man and we can safely trust him. I was not present at the interview with the Manager of the International Banking Corporation. On 5th February last accused came to our shop with Mrs. Muntz and Mrs. Olsan and Mrs. Olsan said she wanted to purchase a necklace worth about 5000£ and we showed her necklace worth about 60000 Rs. but she did not purchase it. On 7th February accused accompanied by Mrs. Muntz came to our shop and they wanted that necklace worth 75000 Rs. which they had selected. Accused assured us that 5000£ will be paid by Messrs. E. Curtice & Co. on his telegram to our Bankers viz. the International Banking Co. in London so we consulted among us and believed the accused and we gave the accused the necklace worth 75000 Rs. On 22nd February

40 we received information from our Banker that the money was not paid by E. Curtice & Co. Ex. B is the letter we received from our Bankers. On 23rd February last I and

Tejumull went to the accused at his bungalow and we told him what our Banker had written. Then the accused told us that he had wired his agents E. Curtice & Co. to sell some of his shares and that he had received a reply saying that the shares do not fetch the proper value and so it was advisable to get a loan. Accused also said that he had wired to his agents to give the terms on which he can get a loan but that no reply had been received. On 25th February last myself and Tejumull went to the accused's bungalow and he said he was one of the partners in William Collins Sons & Co. Glasgow London and that he owns oil fields in Mexico. Accused said that Mrs. Muntz was a lady of means. Accused also said that he had some shares in Mexico mines and he said it would be a heavy loss to him if he sold his shares. Accused said that if he gave a cheque for 4000£ on the firm of William Collins Sons & Co. at Glasgow on which he was a partner the firm will not refuse it. Accused said that he was going to get 90000£ as profit on the sale of his mines but he wanted a 120000£ as profit. On 26th February accused gave me a draft for 4000£ on William Collins Sons & Co. It was a sight draft but he told us not to present the draft till 15th April and we agreed. We gave the drafts for collection to the International Banking Corporation and it has been dishonoured. Ex. C is the letter from our Bankers. The accused is rather tall, thin in face, clean shaven, about 40 years of age. Our Solicitor i. e. Mr. Baker of

41 Messrs. Little & Co. held a consultation with Mr. Strangman the Advocate General and I produce the certificate that he has given. This certificate put in and marked Ex. G.

Taken on solemn affirmation this 11th day of October 1917.

(Sd.)

CHUNILAL H. SETALVAD,

Before me—

(Sd.)

CHUNILAL H. SETALVAD,

*Ag. Chief Presidency Magistrate, Bombay.*

True copy.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,

*Ag. Chief Presidency Magistrate, Bombay.*

## EXHIBIT No. —.

*Deposition of Witness No. III for the Prosecution.*

I do hereby on solemn affirmation state that—

My name is John Dunstan  
Religion Christian  
Age about 35  
Residence Wallace Street

Sherstan Baker  
Caste  
Occupation Solicitor  
District Bombay.

## Examination-in-chief:

I am a partner of Messrs. Little and Company Solicitors. We are acting for the complainant. I have gone into the case. I have also caused inquiries to be made about the accused. We received this reply from our correspondent Rawle Johnson and Co. It is Ex. F. I am of opinion that on the depositions and the materials there is a prima facie case of cheating punishable with more than one year rigorous imprisonment, it is punishable with seven years' rigorous imprisonment under section 420 of the Indian Penal Code which is in force in British India. I have got the certificate Ex. G from the Advocate General who has advised this prosecution.

(Sd.)

J. D. SHERSTON BAKER.

Taken on oath this 11th day of October, 1917, before me

(Sd.)

CHUNILAL H. SETALVAD,

*Ag. Chief Presidency Magistrate, Bombay.*

True copy.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,

*Ag. Chief Presidency Magistrate, Bombay.*

In the Esplanade Police Court of Bombay.

Before the Chief Presidency Magistrate.

Case No. 533/W. of 1917.

UDHARAM PATARBAGH, Complainant,

vs.

Lieutenant Colonel CHARLES G. COLLINS, Accused.

The application of Udharam Patabagh the above-named complainant, sheweth,

1. That on the 22nd day of September 1917 your complainant filed an information against the above-named accused in this

Honorable Court charging the accused with cheating in respect of a sum of Rs. 60000 part of the purchase price of a pearl necklace.

2. That at the date of the filing of the information the accused was believed to be at Quebec in Canada.

3. That the learned Magistrate accordingly directed that the procedure laid down by the Fugitive Offenders Act should be complied with and after the same had been complied with the learned Magistrate on the 11th day of October 1917 directed the issue of a warrant of arrest against the accused.

4. That your complainant has, since the issue of the said warrant, been informed by the Under Secretary to Government Political Department that the accused on or about the 1st October 1917 left the said City of Quebec and proceeded to New York in the United States of America and that he is now resident at the Ritz Carlton Hotel in that City.

Your complainant therefore prays that further evidence necessary to be recorded where an accused is not within His Majesty  
44 the King Emperor's dominions may be recorded and that a fresh warrant may be issued and that such fresh warrant should comply with the provisions of the Extradition Acts and the Extradition treaty with the United States of America.

Dated this 19th day of October 1917.

(Sd.)

UDHARAM PARTABRAI.

Application drawn by  
LITTLE & CO.

*Complainant's Attorneys.*

In pursuance of this application Inspector Fuller is examined today. A warrant for the arrest of the accused on the materials already before me is issued as prayed for.

(Sd.)

CHUNILAL H. SATALVAD.

19-10-17.

True copy.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,

*Ag. Chief Presidency Magistrate, Bombay.*



## EXHIBIT No. —.

*Deposition of Witness No. IV for the Prosecution.*

I do hereby on solemn affirmation state that—

My name is Arthur  
Religion Christian  
Age about 41  
Residence Phalton Road

Father's name Fuller  
Caste  
Occupation Inspector of Police,  
Bombay,  
District —

## Examination-in-chief:

I am an Inspector in the Bombay Police. I am deputed by the Government of Bombay through the Commissioner of Police to act as an escort of the accused Collins if surrendered. I was handed a warrant by this Court under the Fugitive Offenders Act. Telegrams were sent by His Excellency the Governor of Bombay for the arrest of the accused Collins to the authorities at Quebec where he was said to have absconded but subsequently information has been received that the accused Collins has gone to New York in the United States. I produce the letter from the Under Secretary to Government Political Department addressed to the Commissioner of Police mentioning these facts. This letter put in and marked Ex. II. I have also gathered information about the appearance and marks for the identification of the accused Collins. He is tall, *we* built about 6 feet high athletic florid complexion, walks with Military gait squaring shoulders. He was clean shaven when in Bombay. Hair scanty dresses well but flash, weighs between 13 and 14 stones.

(Sd.)

A. FULLER,  
*Inspector.*

Taken on oath this 19th day of October, 1917, before me  
(Sd.) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

True copy.

[SEAL.]

(Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*



47 *List of Exhibits in Case No. 533/W. of 1917.*

- Exhibit A. Original and Duplicate drafts for £5000 dated 2nd February 1917 from Lt. Col. Charles G. Collins to Messrs. E. Curtice & Co., 8 Clarges Street, London, W. England.
- Exhibit B. Letter from the International Banking Corporation Bombay dated 22nd February 1917 to Messrs. Pohoomall Brothers, Bombay.
- Exhibit C. Letter from the International Banking Corporation dated 20th April 1917 to Messrs. Pohoomall Brothers, Bombay.
- Exhibit D. Telegram from accused Colonel Collin to Pohoomall, Bombay.
- Exhibit E. Letter from the International Banking Corporation dated 27th June 1917 to Messrs. Pohoomall Brothers, Bombay.
- Exhibit F. Letter from Rawle Johnstone & Co. dated 14th August 1917 to Messrs. Little & Co.
- Exhibit G. Certificate from Advocate General.
- Exhibit H. Letter No. 8012 dated 17th October 1917 from the Under Secretary to Government, Political Department, Bombay, to the Commissioner of Police, Bombay.

(Sd.)

BALARAM GAJANAN,  
*Judicial Clerk,  
 Chief Presidency Magistrate's Court, Bombay.*

True copy.  
 [SEAL.]

(Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

48

Ex. A.

No. B. 42876.

Duplicate.

£5000-0-0.

Bombay, February 2nd, 1917.

Sixty days after date (original unpaid) pay to Pohoomull Bros. or Order the sum of five thousand pounds sterling and charge the same to my account.

(Sd.)

CHARLES G. COLLINS,  
*Lieut. Colonel.*

To Messrs. E. Curtice & Co., 8 Clarges Street, London, W., England.

Ex. A.

No. B. 42876.

Original.

£5000-0-0.

Bombay, February 2nd, 1917.

Sixty days after date pay to Pohoomull Brothers or Order the sum of five thousand pounds sterling and charge the same to my account.  
(Sd.)

CHARLES G. COLLINS,  
*Lieut. Colonel.*

To Messrs. E. Curtice &amp; Co., 8 Clarges Street, London, W., England.

True copy.

[SEAL.]

(Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

49

Ex. B.

International Banking Corporation.

Bombay, 22nd February, 1917.

Messrs. Pohoomull Brothers, Bombay.

DEAR SIR: In response to our telegram of the 19th Instant to our London office enquiring if they had received any sum from Messrs. E. Curtice & Co. we have today received a telegram stating that nothing has been received.

Please note that we have debited your account with Rs. 20 cost of telegram. Kindly confirm our entry.

Yours faithfully,

(Sd.)

— — —, *Manager.*

True copy.

[SEAL.]

(Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

50

Ex. C.

International Banking Corporation.

Bombay, 20th April, 1918.

Messrs. Pohoomull Bros., Bombay:

Yours. C. on Wm. Collins Sons & Co. Ltd. Glasgow p. £4000/—  
Our No. 17/215.

We have received telegraphic advice from our London Office that the above bill is refused payment with the answer "no authority to draw."

Kindly give us your further instructions and hand us Rs. 161-4- being our  $\frac{1}{4}\%$  commission and cost of telegram as under:

$\frac{1}{4}\%$  commission on £4000/- = £10/- @  $\frac{1}{4}$  ..... Rs. 150-0-0  
C/o telegram from London re: do ..... " 11-4-0

Rs. 161-4-0

Any further charges yet to be paid will be advised to you on receipt of advice from London.

Yours faithfully,

[SEAL.]

(Sd.)

— —, *Manager.*

True copy.

(Signed)

CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

51

Ex. D.

C3

Posts Telegraphs.

Bombay 2nd April 1917.

G. T. O.

= DF LF 278 Yokohama 24 MS PHK 11.

L C D Pohoomull Bombay.

Represent draft sixty days delay unavoidable.

COLONEL COLLIN.

True Copy.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

52

Ex. E.

International Banking Corporation.

Bombay, 27th June, 1917.

Messrs. Pohoomull Bros., Bombay.

DEAR SIR: We have received the following telegram from our London Office today:

"Referring to your telegram of 21st collection No. 215 Collins noted non-payment."

For cost of this message your account is debited Rs. 7/8—(Rupees seven and annas eight only) which please note and confirm.

Yours faithfully,

(Sd.)

— —, *Manager.*

True copy.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

53

Ex. F.

1 Befford Row, London, W. C. 1,

August 14th, 1917.

Re Collins.

DEAR SIR: With reference to your letter of the 12th July we have communicated with our Glasgow correspondents who are important people and who will be able to give us more information about the subject of your enquiry than anyone else.

The following is an extract from a letter we have received from our Glasgow correspondents, whom we asked to make enquiries.

"We are in receipt of your letter of the 10th Curt.

"We happen to know a good deal about Charles G. Collins. We are the Solicitors of his elder brother, Mr. W. A. Collins, and are on intimate terms with another brother, Mr. Godfrey P. Collins M. P. for Greenock.

"About Charles we have only the worst report to give. As a young man he had to resign his Commission in the Army. He was for many years in America and was a few years ago involved there in a criminal prosecution in regard to money matters.

"He got a chance in the present war and did well, we might say brilliantly to begin with, but had to leave the Army (we do not know the particulars), when holding the rank of Lieutenant Colonel.

"He married an American, who had means of her own in strong opposition to her father but they separated some time ago.

54 "We have heard that he was associated with a married woman presumably Mrs. Montz, but as his wife is not, we understand, to proceed with a divorce, Mrs. Montz's relation with him must be somewhat unusual.

"We know nothing as to any interest he may have in oil fields in Mexico, but we do not believe his statement as to this to be true.

"We do know, however, that he has no interest in Messrs. William Collins & Sons & Co. Ltd., and that neither of his brothers will do anything for him.

"We are sorry that our report should be so unsatisfactory, but leave it to you to decide as to how much of it you should communicate with your Bombay correspondents."

We are communicating with the War office as to the present whereabouts of Colonel Collins but we are afraid that we shall get nothing but the usual answer in these cases, which almost invariably that the address will not be given, but that any letter we like to send to Colonel Collins C/o the War Office, will be forwarded.

Yours truly,

(Sd.)

RAWLE JOHNSTONE & CO.

Messrs. Little & Co.

True copy.

[SEAL.]

(Signed)

CHUNILAL H. SETALVAD,  
Ag. Chief Presidency Magistrate, Bombay.

55

EX. G.

In the Esplanade Police Court of Bombay.

UDHARAM PATARBAGH, Complainant,

vs.

Lt. Col. C. G. COLLINS, Accused.

I, Thomas Joseph Strangman Advocate General of Bombay India do hereby certify:

1. That the offence with which the accused is charged is that of cheating and dishonestly inducing delivery of property.

2. That the offence of cheating and dishonestly inducing delivery of property is punishable under Section 420 of the Indian Penal Code with either simple or rigorous imprisonment (the latter being imprisonment with hard labour) which may extend to seven years.

Dated this 25th day of September 1917.

(Sd.)

T. J. STRANGMAN,  
*Advocate General of Bombay.*

True copy.

[SEAL.]

(Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

56

EX. H.

No. 8012.

Political Department,

Bombay Castle, 17th October, 1917.

From A. F. Kindersley, Esquire, Under Secretary to Government, Bombay.

To the Commissioner of Police, Bombay.

SIR: I am directed, with reference to the correspondence ending with your letter No. 10231/31, dated the 8th October 1917, to state that a reply has been received by His Excellency the Governor from the Lieutenant Governor of Quebec, dated the 13th October, as follows:

"Your telegrams of 6th and 11th August (sic). Reply that same person left with New York October 1st stay at Hotel Ritz Carlton, and is not in jurisdiction of Province of Quebec."

2. I am accordingly to say that, unless you see any reason to the contrary, you should apply to the Chief Presidency Magistrate for a warrant of arrest against Collins, stating the offence in terms of the treaty between the United States and Great Britain that is, as an

offence of "obtaining property by false pretences." The necessity for this will be seen on a reference to pages 66 and 201 (3rd treaty with United States) of the Honourable Mr. Muddimen's "Law of Extradition from and to British India." I am also to invite attention to Article X on page- 198-9 of the same.

57 3. The warrant should be addressed to the officer who is to be sent to act as escort to Collins. It should be submitted to Government with record of the evidence, or copies thereof certified by the recording Magistrate. In the case of depositions or other documents extending to more than one sheet of paper, any suspicion of the possibility of the substitution of a sheet should be forestalled by appropriate arrangements.

4. I am also to request that the description of the offender already asked for may be submitted to Government with the papers.

I have the honour to be, Sir,

Your most obedient servant,

(Sd.)

A. F. KINDERSLEY,  
*Under Secretary to Government.*

True copy.

[SEAL.]

(Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

58

Chief Presidency Magistrate's Court.

I, Chunilal H. Setalvad, Ag. Chief Presidency Magistrate, Bombay, do hereby certify that a prima facie case of an offence at Bombay of cheating under Section 420 of the Indian Penal Code in respect of or obtaining by false pretences a pearl necklace valued at Rs. 75000 has been established against the accused Lt. Colonel Charles G. Collins and that the alleged act constitutes under the law in force in the Bombay Presidency an offence punishable under the Indian Penal Code with imprisonment of either description (rigorous or simple) for seven years and a fine.

Given under my hand and the seal of the Court this 19th day of October 1917.

[SEAL.]

(Signed) CHUNILAL H. SETALVAD,  
*Ag. Chief Presidency Magistrate, Bombay.*

59

*Motion of Charles Glen Collins to Dismiss.*

Filed Oct. 26, 1918.

No. 15927.

U. S. District Court, Eastern District of Louisiana, New Orleans.

In re Extradition Proceedings of CHARLES GLEN COLLINS.

Now comes Charles G. Collins whose extradition is sought in these proceedings and moves the Court to dismiss the affidavit herein and

to discharge him from custody without day because this Court is without jurisdiction to try appearer or to hear and pass upon the question raised by the affidavits or the rights of this appearer on the grounds and for the reasons following, to wit:

1st. Because that heretofore, to wit: on or about the 5th day of November 1917 affidavit was made by C. Clive Bayley His Britannic Majesty's Consul General at the Port of New York against appearer herein Charles G. Collins before Hon. Samuel M. Hitchcock, United States Commissioner for the Southern District of New York for the alleged offense, matters and things referred to and declared upon in the affidavit of Gerard M. Lolly, British Vice Consul at the City of New Orleans which is basis of these proceedings which said affidavit by the said C. Clive Bayley, His Britannic Majesty's Consul General was for the purpose of having this appearer extradited from this country where he then was and now is to British India which is the purpose of the affidavit in these proceedings by the said Gerard M. Lolly, British Vice Consul at the City of New Orleans; that upon the said affidavit of C. Clive Bayley, His Britannic Majesty's Consul General at New York, a warrant of arrest was issued by the said Samuel M. Hitchcock, United States Commissioner for the Southern District of New York and this appearer was thereupon arrested at the City of New Orleans by the United States Marshal for the Eastern

District of Louisiana acting under the authority of the said  
60 warrant issued by the said Samuel M. Hitchcock, United States Commissioner for the Southern District of New York and this appearer was duly incarcerated in the Parish Prison located in the City of New Orleans and also in the House of Detention likewise in the City of New Orleans; that in due time the said affidavit by the said C. Clive Bayley, his Britannic Majesty's Consul General at the Port of New York hereinabove referred to was dismissed and appearer was discharged from custody thereunder and the said affidavit and the warrant issued upon the faith thereof were fully and duly satisfied and this appearer cannot now or again be held to answer the said charges nor for the offenses, matters or things alleged in said affidavits.

2nd. Because the affidavit of Gerard M. Lolly British Vice Consul is not such as is required by law does not comply with the law and did not justify the issuance of the warrant of arrest and does not justify the holding of this appearer thereunder for the reasons

(a) The said affidavit does not charge this appearer with having committed any crime and particularly does not charge him with having committed a crime for which, under the treaties between this Country and Great Britain, this appearer may be extradited.

(b) Because even if the said affidavit does charge such a crime herein immediately above referred to, the same is not made in the manner and form required by law and by the said treaties particularly because the said Lolly, Affiant therein, does not state the source of his information upon which his alleged affidavit is made, nor does he annex thereto any paper, document, copy or evidence which justifies the affidavit, nor does he give the ground of his belief of the truth of the matters and things stated in the said affidavit.

61 Wherefore, this appearer objects to and protests against this Honorable Court hearing any evidence, either orally or documentary, upon the affidavit hereinabove referred to and prays the Court to dismiss the said affidavit and to discharge this appearer without day.

(Signed)

CHARLES GLEN COLLINS.

(Signed) J. ZACH SPEARING, *Atty.*

*Affidavit.*

STATE OF LOUISIANA,

*Parish of Orleans:*

Before me the undersigned authority personally came and appeared Mr. Charles G. Collins who being duly sworn deposes and says: That all of the allegations in the above and foregoing petition are true and correct.

(Signed)

CHARLES GLEN COLLINS.

Sworn to and subscribed before me this 22nd day of October 1918 at the City of New Orleans, State of Louisiana.

[SEAL.]

(Signed)

J. ZACH SPEARING,

*Not. Pub.*

62 *Affidavits of Complainant, Exhibits, Certificates, and Deposition- of Witnesses.*

UNITED STATES OF AMERICA,

*State of Louisiana,*

*Parish of Orleans:*

Before me, the undersigned authority, personally came and appeared Gerard M. Loly, who being by me first duly sworn, deposed and said that he is British Vice Consul at the City of New Orleans; that Charles Glen Collins, having in British India committed the crime of obtaining goods by false pretenses, stands charged in the Chief Presidency Magistrate's Court, at Bombay, India, with having, on or about February 19th, 1917, fraudulently, falsely and feloniously pretended to the commerical firm of Ganeshi, Lall & Sons, carrying on business at Agra, Simla and Calcutta, India, that he, the said Collins, was a wealthy man, a partner in the firm of William Collins Sons & Company, of Glasgow and London; that he was a Colonel in the Howe Battalion of the Royal Naval Division; and was then on six months' leave; that he, the said Collins, then and there had the right to draw a draft for two thousand pounds on Messrs. E. Curtice & Company, 8 Clarges Street, London; that the said E. Curtice & Company were bankers; that he, the said Collins, as a man of wealth, was amply entitled to an additional credit of two thousand pounds. Whereas, in truth and in fact, the said Collins was not then and there a wealthy man, but on the contrary was a bankrupt; that he was not and never had been a partner in



the firm of William Collins Sons & Company; that he was not a Colonel in the Howe Batallion of the Royal Naval Division, and was not then and there on six months' leave; that he, the said Collins, had no right to draw a draft for two thousand pounds, or for any amount, on said Messrs. E. Curtice & Company; that the said

63 E. Curtice & Company were not bankers; that the said Collins was not entitled to an additional credit of Two thousand pounds, or to any credit whatsoever; that by means of said false, fraudulent and felonious pretenses, said Collins then and there obtained from said commercial firm of Ganeshi, Lall & Sons, one emerald and diamond necklace; five emeralds; one star ruby and three sapphires, of the price and value of four thousand five hundred pounds, of the property and goods of said Ganeshi Lall & Sons; which said pretenses were to the knowledge of said Collins, at the time of making same, false and fraudulent; and affiant further says that said Collins is presently within the City of New Orleans, and within the jurisdiction of this Honorable Court, and that this affidavit is made in behalf of the British Government, for the purpose of having returned to India for trial, the said Collins.

And affiant further says that Thomas F. Carlisle, the British Consul General at this Port, is confined to his home by illness, and therefore cannot make this affidavit, and that affiant makes the same upon instructions received from the said Thomas F. Carlisle.

(Signed)

GERARD M. LOLY.

Sworn to and subscribed before me this 16 day of October, 1918.  
(Signed) RUFUS E. FOSTER, *Judge*.

64 UNITED STATES OF AMERICA,  
State of Louisiana,  
Parish of Orleans,  
City of New Orleans:

Before me, the undersigned authority, personally came and appeared Tom F. Carlisle, who being by me first duly sworn, deposed and said that he is British Consul General at the City of New Orleans; that he is informed and being so informed, verily believes that Charles Glen Collins having committed the crime of obtaining property by false pretences, stands charged in the Chief Presidency Magistrate's Court, at Bombay, India, with having, on or about February 19th, 1917, fraudulently, falsely and feloniously pretended to the commercial firm of Ganeshi, Lall & Sons, carrying on business at Agra, Simla and Calcutta, India, that he, the said Collins, was a wealthy man, a partner in the firm of William Collins Sons & Company, of Glasgow & London; that he was a Colonel in the Howe Batallion of the Royal Naval Division; and was then on six month's leave; that he, the said Collins, then and there had a right to draw a draft for two thousand pounds on Messrs. E. Curtice & Company, 8 Clarges Street, London, and consequently that said draft would be paid; that the said E. Curtice & Company were bankers; that he, the said Collins, as a man of wealth, was amply entitled

to an additional credit of two thousand pounds; whereas in truth and in fact, the said Collins was not then and there a wealthy man, but on the contrary was a bankrupt; that he was not and never had been a partner in the firm of William Collins Sons & Company; that he was not a Colonel in the Howe Battalion of the Royal Naval Division and was not then and there on six months' leave; that he, the said Collins, had no right to draw a draft for two thousand  
 65 pounds or for any amount on said Messrs. E. Curtice & Company, and said Collins then and there well knew said draft would not be paid; that the said E. Curtice & Company were not bankers; that the said Collins was not entitled to an additional credit for Two thousand pounds, or to any credit whatsoever; that by means of said false, fraudulent and felonious pretences, said Collins then and there obtained from said commercial firm of Ganeshi, Lall & Sons one emerald and diamond necklace; five emeralds; one star ruby and three sapphires, of the price and value of four thousand five hundred pounds, of the property and goods of said Ganeshi Lall & Sons; which said pretences were to the knowledge of said Collins at the time of making same, false and fraudulent; and affiant further says that the said Collins, is presently within the City of New Orleans, and within the jurisdiction of this Honorable Court, and that this affidavit is made in behalf of the British Government, for the purpose of having returned to India for trial, the said Collins.

And affiant further states that the source of his information and belief, upon which information and belief this affidavit is based, is as follows:

The evidence taken on said charge in the Chief Presidency Magistrate's Court, at Bombay, India, duly certified according to the provisions of Section 5271 of the Revised Statutes of the United States; the evidence taken before Sir John Dickinson, Knight, Bow Street Police Court, London, and the evidence taken before Alexander Stuart Duff Thompson, at Glasgow, salaried Sheriff of the Sheriffdom of Lanarkshire, said pieces of evidence duly certified according to the provisions of Section 5271 of the Revised Statutes of the United States are duly annexed to an affidavit filed this day  
 66 in Cause No. — of the docket of the United States District Court for the Eastern District of Louisiana at New Orleans; and a telegram from the British Consul General at New York to the British Consul General at New Orleans, of date January 4th, 1918, a code translation whereof is hereto annexed as part hereof.

(Signed)

T. F. CARLISLE.

Sworn to and subscribed before me this 22 day of October, 1918.

(Signed)

RUFUS E. FOSTER, *Judge*.

67

British Consulate General, New Orleans.

*Translation of Telegram in Code from the British Consul General at New York to the British Consul General at New Orleans, Received on January 4th, 1918.*

Following from Secretary to the Government of Bombay, Political Department, Begins. Your telegram of December 21st. Two other charges against Collins; during February last obtained under false pretences jewellery valued £2000 from firm of Geneshild and Sons of Calcutta and a pearl button valued £1700 from Mahomed Alli Zaimal Ali Raza of Bombay. Ends. Suggest that further affidavits be made and provisional warrants applied for at New Orleans in respect of these further charges.

BAYLEY.

I hereby certify that the above is a true and exact translation of the telegram received by me from the British Consul General at New York which is hereto annexed.

(Signed)

T. F. CARLISLE,  
H. B. M. Consul General.

New Orleans, January 7th. 1918.

68

*Certificate.*

I, James A. Smith, Consul-General for the United States in Calcutta, hereby certify that the annexed papers being (1) a warrant of arrest, and (2) copies of prima facie proceedings in the Court of the Chief Presidency Magistrate, Bombay, proposed to be used upon an application for the extradition from the United States of Lieutenant-Colonel C. G. Collins, late of the British Army, charged with the crime of obtaining valuable property by false pretences alleged to have been committed in Bombay, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of British India, as required by the Act of Congress of August 3rd, 1882.

[SEAL.]

(Signed)

JAS. A. SMITH,  
Consul-General of the United States  
of America at Calcutta, India.

Calcutta, April 8th, 1918.

69

*Certificate.*

In forwarding the annexed papers to be used in support of an application for the surrender from the United States of Lieutenant-Colonel C. G. Collins, late of the British Army, charged with the crime of obtaining valuable property by false pretences, committed in British India, I hereby certify that, to the best of my knowledge and belief, the signatures "A. H. S. Aston" on the warrant of arrest, and

on the information and depositions on which the warrant was granted, are the signatures of Arthur Henry Southcote Aston, a Magistrate in British India, having authority to issue and receive the same, and I further certify that such documents so signed by a Magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Secretary to Government and sealed with his official seal, would be received in evidence for similar purposes in the Tribunals of British India.

[SEAL.]

(Signed)

A. H. GRANT,

*Secretary to the Government of India  
in the Foreign and Political Department.*

Simla, the 2nd April, 1918.

70

Case No. 662/W. of 1917.

No. 662/W. of 1917.

To Arthur Fuller, Inspector of the Bombay City Police Force, Bombay:

Whereas one Lt. Col. Charles Glen Collins stands charged with the offence of obtaining property by false pretences under section 420 of the Indian Penal Code within the jurisdiction of my Court in respect of jewellery valued at £2000 the property of the firm of Ganeshi Lall and Sons, jewellers of Calcutta.

You are hereby directed to arrest the said Lt. Col. Charles Glen Collins and to produce him at the Chief Presidency Magistrate's Court at Bombay or before such Presidency Magistrate as may then be present.

Herein fail not.

Dated this 1st day of December 1917.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

71 In the Court of the Chief Presidency Magistrate, Bombay.

In re BRIJMOHAN LALA RAMKISHANDAS, of the firm of Ganeshi Lall & Sons, Complainant,

vs.

Lt. Col. CHARLES GLEN COLLINS, Accused.

Charge: Cheating, Sec. 420, I. P. Code.

I the undersigned being the Chief Presidency Magistrate, of Bombay hereby certify that the typed matter contained in the foregoing 29 pages of paper is a true copy of the Information of Brijmohanlal Lala Ramkishandas of the firm of Ganeshilall and Son, Bombay taken on solemn affirmation before me on the 1st day of December

1917 and of the depositions of the said Brijmohanlal Lala Ramkishandas, Dattatritia Ramchandra and Arthur Fuller in support thereof sworn and taken before me on the 1st day of December 1917 and of the list of Exhibits and of Exhibits thereto marked 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 and of my certificate.

Given under my hand and the Seal of the Court this First day of December 1917.

[SEAL.]

(Signed)

A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*

72 In the Court of the Chief Presidency Magistrate, at Bombay.

The Information of Brijmohan Lala Ramkishandas of the firm of Ganeshi Lall & Sons Jewellers carrying on business at Agra, Simla and Calcutta against Lieut. Colonel Charles Glen Collins solemnly declared before A. H. S. Aston Chief Presidency Magistrate Bombay this — day of December 1917, sheweth:

1. Your complainant's firm carry on the business of the Jewellers and curio dealers at Agra Simla and Calcutta.

2. Lieutenant Colonel Charles Glen Collins (hereinafter called the accused) is, as your complainant is informed and verily believes, now under arrest in New York in the United States of America on an extradition warrant issued by this Hon-ble Court on a complaint of cheating and being No. 533W/— 1917 filed by Udhamram Patarbugh of Pohoomull Brothers Jewellers of Apollo Bunder Bombay.

3. About the middle of February 1917 the accused with two ladies named Mrs. Olga Olsen and Mrs. Elsie Muntz were staying with Her Highness the Maharani Kapurthala and the accused purchased from your complainants firm the following jewells:

1 Fine square cut emerald weighing about 20 rutees.

1 Uncut emerald and diamond necklace.

1 Fine cabushon emerald weighing about 7 rutees.

1 Fine cut sap-hire about 16 rutees.

1 Cabushon emerald about 16 rutees.

1 Fine cut sapphire 11 rutees.

73 1 Fine cabushon emerald about 4 rutees.

1 Cabushon Sapphire about 31 Rutees.

1 Old engraved emerald about 80 rutees.

1 Fine cabushon star ruby about 20 rutees.

4. The price of the said jewells was £4506 equivalent to Rs. 67,500.

5. The purchase was completed on the 9th February 1917 when the accused gave your complainant a cheque for £500 on Messrs. Thomas Cook & Sons, Bombay and a promissory note for £2000 payable sixty days after date and expressed to be payable at Messrs. E. Curtice & Co., 8 Clarges Street London. The accused also promised to give to your complainants through their Agents Messrs. Thomas Cook & Son Bombay a sixty days' draft of his agents in London the said Messrs. E. Curtice & Co. for a further sum of £2000/—.

6. The accused represented that he was a wealthy man, a partner in the firm of William Collins Sons & Co. of Glasgow and London and

a Colonel in the Howe Battalion of the Royal Naval Division and then on six months' leave and he assured your complainant that the said cheque for £500, the said promissory note for £2000/— and the said draft for £2000/— would all be duly paid.

7. Your complainants firm believed the assurance of the accused—and were induced thereby to deliver to him the above-mentioned jewels.

8. The said cheque for £500 was duly honored and the accused delivered to Messrs. Thomas Cook & Sons as your complainant's agents in Bombay the said draft for £2000.

9. Hereto annexed and marked "A" are copies of the said promissory note and draft and of a letter dated the 20th February 1917 written by the accused confirming the sale.

10. The accused left India on or about the 27th February 1917 and the said promissory note and draft were duly presented at maturity but were dishonored by non-payment. On being repre-

74 sented on several occasions they have been similarly dishonoured.

11. Your complainant has caused enquiries to be made in London and has been informed that the accused was adjudicated a bankrupt in England on the 19th August 1904 and that a second petition in bankruptcy was filed against him in 1916 and that he did not appear for his public examination.

12. Your complainant has also been informed that the accused has no interest at all in William Collins Sons & Co. Limited and that the same is not a firm but a limited Company.

13. Your complainant has been further informed that the accused was not on 6 months' leave from the Army as alleged by him but that since May 1916 he has not held a commission in the Army.

14. Your complainant has been further informed that Messrs. E. Curtice & Co. of 8 Clarges Street London are not Bankers and agents but merely boarding house keepers and were not aware that any draft had been drawn upon them by the accused nor had they any funds belonging to the accused wherewith to pay such drafts.

15. Your complainant submits that the accused deceived your Complainant and thereby dishonestly induced your complainant's firm to deliver the said jewels to him upon a promise to pay for the same which promise the accused had no intention of performing, that the accused gave a worthless promise note for £2000/— to your complainant well knowing the same to be worthless and that the accused gave a worthless draft for £2000/— to your complainant well knowing the same to be worthless.

Your complainant therefore submits that the accused has committed the offence of cheating under Section 420 of the Indian  
75 Penal Code and prays that he may be charged and dealt with according to law.

(Sd.)

BIRJMOHAN.

Solemnly declared before me.

(Sd.)

A. H. S. ASTON,  
Chief Presidency Magistrate.

Brijmohan Lal:—One of the drafts was given in Bombay. The sale took place at Delhi. The draft for £2000 sterling dated 22nd February was given in Bombay. Accused owed us £2000 and it was in fulfillment of the promise that he gave us the £2000. Accused told us that he had money at Messrs. Clarges and Company and that the money would be paid at once. He had all the goods at this time.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*

76

"A."

*Copy of Promissory Note Made at Delhi.*

£2,000.

Delhi, February 19th, 1917.

Sixty days after date I promise to pay to Messrs. Ganeshi Lal & Son or order the sum of Two Thousand Pounds sterling for value received.

(Sd.)

CHARLES G. COLLINS,  
*Lt. Col.*

Payable at Messrs. E. Curtice & Co., 8 Clarges Street, London, W.

*Copy of Draft Drawn at Bombay.*

No. B. 695,928.

£2,000.

Bombay, 22nd February, 1917.

Sixty days after date pay Ganeshi Lal & Son or order the sum of Two thousand pounds sterling and charge my account.

(Sd.)

CHARLES G. COLLINS.

To Messrs. E. Curtice & Co., 8 Clarges Street, London, W.

*Copy of Letter Given by Coll. Collins at Delhi.*

The 20th February, 1917.

To Messrs. Ganeshi Lal & Son, Jewellers, of Agra, Delhi.

DEAR SIRS: I have taken delivery of all the stones and Necklace which I have bought yesterday morning to the value of £2500/—and paid a cheque for £500/—and given you a sixty days' draft on my Agents in London for £2000/—

77 I have also received from you the large emerald I bought of you yesterday evening, weighing 19 Rutees about to the value of £2000/—for which I am going to give you a sixty days' draft on



my Agents in London, through your Agents Messrs. Thomas Cook & Son, Bombay, on Thursday the 22nd of this month.

Yours faithfully,  
(Sd.)

CHARLES G. COLLINS,  
*Lt. Coll.*

A true copy.

[SEAL.]

(Signed)

A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*

78

547-2,00,000-6-14—(12)—st. Civ. A. 27 e.

No. 662/W. of 1917.

EXHIBIT No. —.

*Deposition of Witness No. — for the—.*

I do hereby on solemn affirmation state that—

My name is Brijmohanlal

Religion Hindoo

Age about 25

Residence Calcutta

Farther's name Lalla Ramkisonadas

Caste Khatri

Occupation Jeweller

District ———

Examination-in-chief:

I know the accused. I first met him in Agra in January 1917. With him was one Sir Edwin John of the John Mills of Agra and Commander Holmes, one Mrs. Trapman, one Mrs. Olsan who was represented as the Colonel's sister, one Mrs. Muntz who was represented as his wife. They came to my place. They first made a small purchase. They ultimately returned to Bombay. Accused gave me this card put in as Ex. No. 1. Accused asked me to come and see him at 8 Harkness Road. We showed him some things but we did not agree as to the price. Accused told me he was going to Baroda and Kapurthala and would come back to Delhi about 16th or 17th February 1917. On the 15th February I wrote a letter to accused. This is a copy Ex. No. 2. I received this reply Ex. No. 3. I went to the Cecil Hotel on Monday. My father was with me. I had a box of jewels with me. We saw accused on the 19th February in the Cecil Hotel Delhi. My father was there also accused, Mrs. Olsan, Mrs. Muntz and I. Accused selected some jewellery. This is a list of the ornaments he selected. It is correct Ex. 4. The price was agreed on as £2500. Accused gave me a cheque on Messrs. 79 Thos. Cook and Sons, Bombay for Rs. 7500 leaving a balance of £2000 to be paid by promissory note in the afternoon for we had no hundi papers then. Before I gave him credit accused told me he had some interest in the Canadian Railway and was a partner of Collins Sons and Company and had some shares in London too. Accused said he would wire to his Bankers from Bombay to pay the drafts on the due date. In the afternoon we went to ac-

cused's room with the stamped Hundi papers. Accused wrote them in duplicate. This is a copy of the Promissory Note Ex. 5. After he had finished he looked at the jewels again and decided to buy one large emerald of 19 rattis for £2000. He did not pay at the time because we had no Hundi papers. Accused said he would give a draft to our Agents Messrs. Thos. Cook and Sons in Bombay. He gave us this draft letter to be written to Thos. Cook and Sons Ex. 6. Before leaving Delhi on the morning of the 20th he gave us this letter Ex. 7. He also gave us this card Ex. 8. He subsequently gave Messrs. Thos. Cook and Sons draft of which this is a copy Ex. 9. The original is in London. We received this advice by letter it is the original letter Ex. 10. Accused sent us this telegram Ex. 11. We received this advice from Thos. Cook and Sons Ex. 12. We caused enquiries to be made in London. I produce a letter received from Harry Morser with a report enclosed Ex. 13. No money has been received by me either in respect of the draft or Promissory note. Accused is a tall gentleman not very fat nor thin clean shaven, dark grey hair. He has a peculiar way of laughing. He has a very uncommon way of laughing. He does not walk like a soldier but like a millionaire. He looks like a very good man and a very rich man. He has left India.

80 If I had known that accused was an undischarged bankrupt and that Curtice and Company are boarding House keepers I would not have given accused the jewellery. I would not have accepted the draft in Bombay. Either I would have asked for cash or strong security and failing that I would have reported him to the Police. We know William Collins Sons and Company to be a good firm. I believed accused was a partner that is what he assured. I believed all his representations. I have lost £4000/-.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

81 547-2,00,000-6-14—(12)—st. Civ. A. 27 e.

EXHIBIT No. —.

*Deposition of Witness No. — for the—.*

I do hereby on solemn affirmation state that—

My name is Dattatraya	Father's name Ramchandra
Religion Hindoo	Caste Brahmin
Age about 31	Occupation Clerk in Thos. Cook and Sons
Residence Grant Road	District Bombay.

Examination-in-chief:

On the 23rd February 1917 we had draft from Col. Collins. It was dated the 22nd February 1917. This is a copy of the draft viz. Ex. 9. It was given to me on account of Ganeshi Lall. The draft

was dishonoured. It has not yet been paid. It is with our London Office.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

82

547-2,00-,000-6-14—(12)—st. Civ. A. 27 c.

EXHIBIT No. —.

*Deposition of Witness No. — for the—.*

I do hereby on solemn affirmation state that—

My name is Arthur

Religion Christian

Age about 41

Residence Phalton Road

Father's name Fuller

Caste European

Occupation Inspector of Police

District Bombay

Examination-in-chief :

I have ascertained the description of Col. Collins. He is about 6 feet high, has broad shoulders, florid complexion, walks with a Military gait, is clean shave, dresses in a flashy manner.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

83

*List of Exhibits in Case No. 662/W. of 1917.*

No. 1. Visiting Card.

No. 2. Letter to Col. dated 15-2-17 written by the complainant.

No. 3. Reply to above letter dated 16-2-17.

No. 4. List of Ornaments dated 19-2-17.

No. 5. Copy of the Promissory Note dated 19-2-17.

No. 6. Draft of letter written by the Colonel.

No. 7. Letter dated 20-2-17.

No. 8. London Address of the Col. (On a visiting card).

No. 9. Copy of a draft dated 22-2-17.

No. 10. First advice dated 3rd May 1917.

No. 11. Telegram.

No. 12. Advice dated 25th June 1917.

No. 13. Letter with report dated 28th September 1917.

No. 14. Certificate from the Advocate General of Bombay.

(Sd.)

P. DAVID,

*Judicial Clerk, Chief Presidency Magistrate's*

*Court, Bombay.*

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

84

No. 1.

Ganeshi Lall &amp; Son,

The Emporium,  
Simla,13 Drummond Road,  
Agra.

8 Harkness Road.

True copy.  
[SEAL.](Signed) A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*

85

No. 2.

Ganeshi Lall and Son, Jewellers,

The Emporium,

No. 13 Drummond Road, Agra &amp; Simla.

Delhi, the 15th February, 1917.

To Lieut. Col. Collins, Kapurthala.

DEAR SIR: We trust this letter will find you at Kapurthala.

Since we had the pleasure of attending on you at Bombay we have had done some good luck both in selling and in acquiring a few good things.

It is due to one of these latter dues that I am sending this letter with a special messenger. It is an extremely fine ruby of uncommon size nearly fifteen carat in weight and full of life and colour. In short it is the right thing. We wish to show this to you and shall feel obliged by your letting us know when and where we can attend on you with it along with the other things you had selected in Bombay and which unfortunately I could not stay to sell as I had an engagement previously arranged at Agra.

Further I may add that the big emerald you saw in Bombay with me weighs nearly 20 rattis and not 15 rattis as were thinking.

Yours faithfully,

(Sd.)

GANESHILA LALL.

P. S.—Kindly reply per bearer and oblige.

True copy.  
[SEAL.](Signed) A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*

Guests' House, Kapurthala.

Colonel Collins is much obliged for Mr. Ganeshi Lall's letter and will be glad to see him on Monday at the Cecil Hotel Delhi at Noon. Mrs. Collins wants a good diamond about 8-10 carats.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,  
Chief Presidency Magistrate, Bombay.

Messrs. Ganeshi Lall & Son,

No. 13 Drummond Road, Agra, & the Mall, Simla.

No. L. 36.

Agra, the 19th February 1917.

Lt. Col. C. G. Collins, Dr.

To Ganeshi Lall and Sons, Manufacturing Jewellers, Embroiderers & Shawl Merchants, Agra and Simla.

Date.	Description.	Amount.
February 19th.	One uncut emerald & diamond necklace	
	One engraved Emerald about 80 Rattis	
	One Cabushon emerald about 4¼ Rattis	
	One Cabushan emerald about 16 Rattis	
	One fine Cabushon Emerald about 17 Rattis	
	One Cabushan star Rubie about 20 Rattis	
	One large sapphire about 11 Rattis	
	One fine small sapphire about 5¼ Rattis	
	One Sapphire	£2,500-0-0
	One large emeralds about 19 Rattis	£2,000-0-0
		£4,500-0-0
	Received by cheque on Thos. Cook & Son, Bombay, for Rs. 7,500/-	£500-0-0
	Balance due	£4,000-0-0
	Total	£4,000-0-0

Rs. 4,000/-/-.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,  
Chief Presidency Magistrate, Bombay.

88

No. 5.

Copy.

£2,000/-.

Delhi, February 19th, 1917.

Sixty days after date, I promise to pay to Messrs. Ganeshi Lall and Son or order, the sum of two thousand pounds sterling for value received.

(Sd.)

CHARLES G. COLLINS, *Lt. Col.*

Payable at Messrs. E. Curtice &amp; Co., 8 Clarges Street, London, W.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

89

No. 6.

Lt. Col. C. G. Collins has told that he will call in on you next Thursday the 22nd instant and will sign a sixty day draft on his Agents in London payable to ourselves and we should be obliged if when you have collected this draft if you will credit the same to our account.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

90

No. 7.

Ganeshi Lall &amp; Son,

The Emporium,

No. 13 Drummond Road, Agra &amp; Simla.

The 20th February, 1917.

To Messrs. Ganeshi Lall &amp; Son, Jewellers, of Agra, Delhi.

DEAR SIR:- I have taken delivery of all the stones and necklace which I have bought yesterday morning to the value of £2500 and paid a cheque for £500 and given you a sixty days' draft on my Agents in London for £2000.

I have also received from you the large emerald I bought of you yesterday evening weighing 19 Rattis about the value of £2000 for which I am going to give you a sixty days' sight draft on my Agents

in London, through your Agents Messrs. Thos. Cook and Son in Bombay on Thursday the 22nd of this month.

Yours faithfully,

(Sd.)

CHARLES G. COLLINS, *Lt. Col.*

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

91

No. 8.

Lieut. Colonel C. G. Collins,  
51 South Street, Park Lane, W.

Howe Battalion

Royal Naval Division

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

92

No. 9.

Copy.

No. B695,928.

£200/-.  
Bombay, 22nd February, 1917.

Sixty days after date pay Ganeshi Lall and Son or order the sum of two thousand pounds Stg. and charge my account.

(Sd.)

CHARLES G. COLLINS.

To Messrs. E. Curtice & Co., 7 Clarges Street, London, W.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

93

No. 10.

Thos. Cook & Son.

Bombay, 3rd May, 1917.

Messrs. Ganeshi Lall and Sons, Agra.

DEAR SIRS: We beg to confirm our telegram of today reading as follows: "Both Collins Drafts unpaid marked no advice."



We shall be glad to receive your further instructions in the matter.  
Yours faithfully,

(Sd.)

Per Pro THOS. COOK & SON.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

94

No. 11.

Post and Telegraphs.

DF LF 286 Yokohama I MS 12 LCD Ganeshihall Agra

Hold Drafts Sixty Lays Longer Delay Unavoidable.

COLONEL COLLINS.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

95

No. 12.

Thos. Cook and Sons.

Bombay, 25th June, 1917.

Messrs. Ganeshi Lall and Son, 13 Drummend Road, Agra.

DEAR SIRs: We beg to inform you that we have to day received a cable from our Head Office dated 22nd June reading as follows:

"Referring to your telegram of sixth Collins both drafts referred to not paid answer no advice."

and we have today wired you accordingly.

Yours faithfully,

(Sd.)

Per Pro THOS. COOK & SON.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

96

No. 13.

Harry Morser.

37 Hatton Gardens,

London, 28th September, 1917.

Mr. Ganeshi Lall, Agra.

MY DEAR FRIENDs: I beg to acknowledge receipt of your esteemed letters and different cables and confirm my different cables which no

doubt you have received. I had to postpone writing to you fully until such date when I should be in a position to give you full information regarding Collins. If you have not heard from me at once in answer to your cables, please do not think for one moment that I have neglected the matter but I simply did not care to telegraph unless I had definite news. I also had the visit to Messrs. Sanderson Solicitors whom I have given every information and assistance that I could, I personally did my very best to find out all I could about this man, but when I saw that such channels as I should be compelled to use were close to me I considered it in your own interest to employ a private detective who has far more facilities than I have. I found this man in Mr. Brewster Kemp who has been 35 years with Scotland Yard, I arranged with him the fee and his investigations are embodied in the enclosed report a copy of which I have given to your Solicitors. I am extremely sorry that you have been the victim of a swindler, and up to the time of writing it has been impossible to find out where Collins is. Mr. Kemp is now working hand in

97 hand with your Solicitors and you may rest assured that everything is being done and watched by me in your interest.

My opinion is that when Parliament is sitting again to approach his brother who may settle the matter. At present the whereabouts of his brother are unknown, but he is sure to come to London when Parliament opens. I am enclosing herewith a statement of my expenses, and I should be very glad if you will kindly remit same. I trust and pray that you may be spared this heavy loss and you can rest assured that everything is being done in your interest. I hope you are enjoying excellent health.

With kindest regards from my family to you and yours,

I am always,

Your sincere friend,

(Sd.)

HARRY MORSER.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON.

*Chief Presidency Magistrate, Bombay.*

98 Private and Confidential.

The Holborn Stadium.

85 High Holborn, W. C. 1,

13th September, 1917.

Henry Morser, Esquire, 37 Hatton Garden, E. C. 1.

Re Charles Glen Collins.

DEAR SIR: I have to report that, acting upon your verbally conveyed instructions, having made inquiries respecting the above man, the information I have been able to obtain so far is as follows:

He is a member of the family of William Collins Sons and Company Publishers and Stationers, who carry on business in Glasgow, London and Australia, but he is in no way connected with the business. He is one of four brothers, two of whom, Godfrey and William, are Directors of the firm in question.

He formerly obtained a commission in the Gordon Highlanders and served with distinction in the Boer War. He subsequently went to the United States, where he married a Miss Wheeler, daughter of Mr. Wheeler, a member of a famous sewing machine manufacturing firm.

At the outbreak of war with Germany, he joined the Naval Brigade and was appointed to the Command of the Howe Battalion, and served during the Gallipoli campaign, he eventually returned to London and lived at various addresses.

The address: 51 South Street, Park Lane, is a large block of residential flats. He has never lived there; he occasionally visited a Mr. and Mrs. Muntz. Mr. Muntz is believed to have served with Collins as a brother officer in the Gallipoli Campaign. He divorced his wife and Collins was cited as the co-respondent.

99 Collins and Mrs. Muntz suddenly left the country together and went to Colombo, thence to Bombay; later to New York and they were recently heard of in Norway. It is believed that Mrs. Muntz has been working with him in India, contracting these debts.

Charles Glen Collins was adjudicated a bankrupt in this Country on the 19th August 1904, with heavy liabilities. A second petition in bankruptcy was filed against him in 1916, but he did not surrender to his examination.

On the 16th March 1912 he was arrested for obtaining money by means of worthless cheques at the Victoria Hotel, Sligo, but the charge was subsequently withdrawn and it is supposed the matter was settled by his friends.

He is also believed to have obtained money by means of worthless cheques in Vienna.

One of his brothers is Major Godfrey Pattison Collins, former Secretary to Colonel Seely, and now private secretary to Mr. Gulland M. P. who is a Liberal Whip to the present Government.

I am informed that Mrs. Collins is about to divorce her husband in New York.

Mrs. Muntz is the daughter of a Mr. Benn, a very rich iron founder and I am seeking an early interview with him and also with Major Godfrey Collins, with a view to obtaining, if possible, the present address of Charles Glen Collins and possibly a settlement of this account or some security for it.

I understand that the Official Receiver recently obtained possession of some shares left to Collins under his grandfather's Will and these have been disposed of for the benefit of the Creditors.

100 I have interviewed Mr. Edward Curtice of 8 Clarges street Piccadilly, who has furnished flats at this address; he also has the Curzon Hotel, Broadstairs, and the Philbeach Private Hotel, Kensington. He informed me that he has known the Collins fam-

ily for many years, especially Charles Glen Collins. The last he heard of Collins was from Bombay, when he, Collins, informed him that he proposed purchasing certain Oil properties in South America; later he sent word by a friend (unknown to Curtice) that he was forwarding to Curtice a sum of £11000 to cover certain liabilities contracted. This money, however, has not yet arrived, but Curtice states that he is expecting to hear from Collins in the near future, and has promised to acquaint me at once should he hear.

Mr. Curtice states that he was not aware that the Bill had been drawn on him until someone called to collect it.

I am pursuing the inquiry with a view to learning the present whereabouts of Collins and I hope to be able to obtain this information very shortly when a further report will be submitted.

I am, dear sir,

Yours obediently,

(Sd.)

WILLIAM B. KEMP.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

101

No. 14.

In the Court of the Chief Presidency Magistrate, Bombay.

Case No. 662/W. of 1917.

BRIJMOHAN LALA RAMKISSONDAS, of the Firm of Ganeshi Lall and Sons, Complainant,

vs.

Colonel CHARLES GLEN COLLINS, Accused.

I, Thomas Joseph Strangman Advocate General of Bombay India do hereby certify:

1. That the offence with which the accused is charged is that of cheating and dishonestly inducing delivery of property.

2. That the offence of cheating and dishonestly inducing delivery of property is punishable under section 420 of the Indian Penal Code with either simple or rigorous imprisonment (the latter being imprisonment with hard labour) which may extend to seven years.

Dated this 30th day of November 1917.

(Sd.)

T. J. STRANGMAN,

*Advocate General of Bombay.*

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

102

## Chief Presidency Magistrate's Court.

Bombay, 1st December, 1917.

I, A. H. S. Aston, Esquire, Chief Presidency Magistrate, Bombay, do hereby certify that a prima facie case of an offence of obtaining property by false pretences under section 420 Indian Penal Code within the jurisdiction of my Court in respect of jewellery valued at £2000 has been established against the accused Lieut. Col. Charles Glen Collins and that the alleged act constitutes under the law in force in the Bombay Presidency an offence punishable under the Indian Penal Code with imprisonment of either description (rigorous or simple) for seven years and a fine.

Given under my hand and the Seal of the Court this 1st day of December, 1917.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

103

*Motion of Charles Glen Collins to Dismiss.*

Filed Oct. 26, 1918.

U. S. District Court, Eastern District of Louisiana, New Orleans Division.

No. 15928.

In re Extradition Proceedings of CHARLES GLEN COLLINS.

Now comes Charles G. Collins whose extradition is sought in these proceedings and moves the Court to dismiss the affidavit herein and to discharge him from custody without day because this Court is without jurisdiction to try appearer or to hear and pass upon the questions raised by the affidavits or the rights of this appearer on the grounds and for the reasons following, to wit:

1st. Because that heretofore, to wit: on the 13th day of February, 1918, Affidavit was made by Thomas F. Carlisle, His Britannic Majesty's Consul General at New Orleans against appearer herein, Charles G. Collins before R. H. Carter, United States Commissioner of the Eastern District of Louisiana for the alleged offenses, matters and things referred to and declared upon in the affidavit by Gerard M. Loly, British Vice Consul at the City of New Orleans which is the basis of these proceedings, which said affidavit by the said Thomas F. Carlisle, His Britannic Majesty's Consul General was for the purpose of having this appearer extradited from this Country where he then was and now is to British India which is the purpose of the affidavit in these proceedings by the said Gerard M. Loly, British Vice Consul at the City of New Orleans; that upon the said affidavit of Thomas F. Carlisle, His Britannic Majesty's Consul General at New Orleans a warrant of arrest was issued by the said

R. H. Carter, United States Commissioner of the Eastern District of Louisiana and this appearer was thereupon arrested at the City of New Orleans by the United States Marshal of the Eastern District of Louisiana acting under the authority of the said warrant issued by the said R. H. Carter, United States Commissioner for the Eastern District of Louisiana and this appearer was duly arrested  
 104 under the said affidavit which said affidavit is still pending and undisposed of.

2nd. Because the affidavit of Gerard M. Loly, British Vice Consul is not such as is required by law does not comply with the law and did not justify the issuance of the warrant of arrest and does not justify the holding of this appearer thereunder for the reasons.

(a) The said affidavit does not charge this appearer with having committed any crime and particularly does not charge him with having committed a crime for which, under the treaties between this Country and Great Britain, this appearer may be extradited.

(b) Because even if the said affidavit does charge such a crime herein immediately above referred to, the same is not made in the manner and form required by law by the said treaties particularly because the said Loly, Affiant therein, does not state the source of his information upon which his alleged affidavit is made, nor does he annex thereto any paper, document, copy or evidence which justifies the affidavit, nor does he give the ground of his belief of the truth of the matters and things stated in the said affidavit.

Wherefore, this appearer objects to and protests against this Honorable Court hearing any evidence, either orally or documentary, upon the affidavit hereinabove referred to and prays the Court to dismiss the said affidavit and to discharge this appearer without day.

(Signed)

CHARLES GLEN COLLINS.

(Signed) J. ZACH SPEARING, *Atty.*

105

*Affidavit.*

STATE OF LOUISIANA,  
*Parish of Orleans:*

Before me the undersigned authority personally came and appeared Mr. Charles G. Collins who being duly sworn deposes and says: That all of the allegations in the above and foregoing petition are true and correct.

(Signed)

CHARLES GLEN COLLINS.

Sworn to and subscribed before me this 22nd day of October 1918 at the City of New Orleans, State of Louisiana.

[SEAL.]

(Signed)

J. ZACH SPEARING, *Not. Pub.*

106 United States District Court, Eastern District of Louisiana.

No. 15927, 15928.

In the Matter of Extradition Proceedings of CHARLES GLEN COLLINS.

Proceedings Had Before the Honorable Rufus E. Foster, Judge  
United States District Court, Eastern District of Louisiana, on the  
30th Day of October, 1918.

Appearances:

Judge R. H. Marr, representing the Petitioner.

J. Zack Spearing, Esq., representing the Defendant.

107

Offer.

Judge Marr: We offer certified copy of the proceedings had in the court of the Chief Presidency Magistrate, Bombay, with all the certificates thereto attached; that is in the charge of Ganeshi Lall & Sons, Jewelers.

Offer.

I next offer a certified copy of the proceedings had in the court of the Chief Presidency Magistrate, Bombay, in the matter in which the accused is charged with having fraudulently obtained jewels from the firm of Pohoomull Brothers.

Offer.

I offer in evidence the evidence taken before Sir John Dickinson, Knight, Chief Magistrate of the Police Courts in London, and the evidence taken in Glasgow before Alexander Stuart Duff Thomson.

And in connection with these offers are attached documents, certificates and exhibits annexed to the testimony, and, further, the admission that the accused at bar is the same person who stands accused in Bombay and for whom extradition has been applied.

Mr. Spearing: I will not make the admission that he is the same person that stands accused, because I don't want to admit that he is accused, but this is the person (referring to Charles Glen Collins) that is cited.

The Court: You will admit that he is Lieutenant Colonel Charles G. Collins, late of the British Army?

108 Mr. Spearing: Yes; and that he is the person referred to in these papers.

Objection.

Mr. Spearing: I object to the reception of any of the documents, papers, certificates or copies that have been offered in evi-



dence, on the ground that they do not relate to and do not show the charge against the accused for an offence covered by any treaty between the Government of Great Britain and the Government of the United States, and they do not charge any offence which, under any treaty between those two governments, is extraditable; that the papers offered in evidence relate to an offence entirely separate, different and distinct from the offence charged in the affidavits filed in this court.

The Court: I overrule the objection.

Mr. Spearing: I reserve a bill to the ruling of the Court.

Mr. Spearing: Reserving the benefit of the objection made to the admission of any of the papers and documents in evidence, I make the following objections:

First. That the certificates are not in proper form——

The Court: Which certificates are you talking about now?

Mr. Spearing: The certificate——

The Court: Of the Consul?

Mr. Spearing: Of the Consul.

109 The Court: Well, let's see what is the matter with that; what is wrong with that certificate?

Mr. Spearing: There is another certificate there, the certificate——

The Court: That is the certificate of the Consul. Is that all right?

Mr. Spearing: That seems to be all right. The certificate of the Chief Presidency Magistrate in one case, it does not refer to the number of pages, it simply says the — number of pages. That is in the Pohoomull matter, and in the other, it refers to the foregoing pages from 1 to 29, I believe it is, whereas the "foregoing" if you give it its true and technical meaning, means that which precedes and not that which follows. That is, all the papers and documents in there, in my humble judgment, are not admissible under any statute, and I am going to make special objections to them, but we are dealing now, as I take it, with a matter that is entirely technical, we are dealing with papers that we have absolutely no opportunity of comparing with the originals, and they must, I take it, speak for themselves, and that when an officer gives a certificate——

The Court: There are twenty-nine pages here. Then he says "the foregoing" instead of "the following," and the only difficulty with that is that one is stuck in front, and if he had stuck it on the back, it would have been all right. I overrule that objection. It is all sealed up.

110

Objection.

Mr. Spearing: Now I object to any of the papers or documents. Neither one of the sets from Bombay, either by Pohoomull Bros. or by Ganesho & Sons has the warrant of arrest and the copy of the original deposition or depositions appended to the original warrant of arrest issued.

The Court: You don't object to the warrant of arrest, that is this first document here signed by A. H. S. Aston; that is all right; is it?

Mr. Spearing: There are two warrants of arrest.

The Court: Now then, the affidavit——

Mr. Spearing: In one case, the affidavit of the representative of Pohoomull and in the other case the affidavit of the representative of Ganeshi & Son.

The Court: That is down to the certificate on page 4. You don't object to that. You don't object to page 5 either, that is, the certified copies of the draft given and the letter written by Colonel Collins.

Mr. Spearing: Your Honor will see that there is an affidavit—I don't know which set your Honor has.

The Court: I have the first one that Judge Marr offered.

Mr. Spearing: You will find——

The Court: I have the one where he certified, "the foregoing twenty-nine pages," and it is headed "In the Court of the Chief  
111 Presidency Magistrate, Bombay." Now then——

Mr. Spearing: The information of an Indian named Birjmohan Lala Ramkishandas, at Bombay, Manager of Ganeshi Lall & Sons.

The Court: Birjmohan Lala Ramkishandas.

Mr. Spearing: That is the affidavit upon which the warrant issued. As I construe the section of the Revised Statutes, that is all that can be admitted from India?

The Court: Why?

Mr. Spearing: Because the section of the Revised Statutes provides:

"In every case of complaint, and of a hearing upon the return of the warrant of arrest, copies of the depositions upon which an original warrant in any foreign country may have been granted, certified under the hand of the person issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended, if they are authenticated in such manner as would entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party escaped. The certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that any paper or other document so offered is authenticated in the manner required  
by this section."

112 The Court: Isn't there another section that admits the depositions?

Mr. Spearing: If there is, I am not familiar with it.

Judge Marr: Here is Section 5271:

"In every case of complaint and of a hearing upon the return of the warrant of arrest, any depositions, warrants or other papers offered in evidence shall be admitted and received for the purpose of such hearing, if they shall be properly and legally authenticated so as to entitle them to be received as evidence of the criminality of the person so apprehended, by the tribunals of the foreign country from which the accused person shall have escaped, and copies of any such depositions, warrants or other papers, shall, if authenticated according to the law of such foreign country, be in like manner received as evidence; and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be

proof that such deposition, warrant or other paper, or copy thereof, is authenticated in the manner required by this section."

Mr. Spearing: That is the identical section I read. It says, "the depositions upon which an original warrant of arrest issued." It does not say "any depositions"; it confines and restricts it to "depositions upon which an original warrant of arrest issued, and that is the affidavit.

The Court: Which warrant does that refer to? That re-  
113 fers to the warrant of the Commissioners in this country, does it not?

Mr. Spearing: On the contrary, it provides for the certificate by the Consular Agent "In every case of compl[etion] it and of a hearing upon the return of the warrant of arrest, copies of the depositions upon which an original warrant in any foreign country may have been granted, certified under the hand of the person issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended."

The Court: Here is this certificate: "I the undersigned, being the Chief Presidency Magistrate of Bombay, do hereby certify that the typed matter contained in the foregoing twenty nine pages is a true copy of the information of Brijmohanlal Lala Ramkishandas, of the firm of Ganeshi Lall and Son, Bombay, taken on solemn affirmation before me on the 1st day of December 1917 and of the depositions of the said Brijmohan Lal Lala Ramkishandas, Dattatria Ranchandra and Arthur Fuller in support thereof, sworn and taken before me on the 1st day of December 1917, and of the list of exhibits and of exhibits thereto marked 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 and of my certificate." That identifies them all with the papers, this bunch I have before me at any rate.

Mr. Spearing: There are two bunches with the same cer-  
114 tificate.

The Court: Let's get through with this one first, because I will look at them as we go along. Here is the information of Brijmohanlal, age twenty-five, occupation jeweller, residence Calcutta. Then he goes on to identify these various exhibits.

Mr. Spearing: I am urging that the only one of that bunch there that can be admitted in evidence is the affidavit commencing "In the Court of the Chief Presidency Magistrate at Bombay, the information of Brijmohan Lala Ramkishandas, of the firm of Ganeshi Lall & Sons," so that, I take it, is the affidavit on which the warrant issued; that is the charge.

The Court: According to this certificate, everything in this file was offered before this Indian court, and the warrant issued on all of this in here; so, as far as that goes, I will overrule that objection. Now I will take up those others.

Mr. Spearing: I except to the ruling of the Court, and reserve this note in lieu of a formal bill of exceptions.

Mr. Spearing: The other one is the same, and there is no use of any longer taking up your Honor's time on that second one.

The Court: There are three of them.

Mr. Spearing: There is a third one to which that objection is good, I think.

The Court: This is the evidence of John Richard Campbell Howie and Edward Curtice.

115 Mr. Spearing: Those affidavits, that third one, may it please your Honor, you will find those are affidavits taken in London and in Glasgow.

The Court: James Paterson, Hugh Allan, A. S. D. Thomson, John Richard Campbell Howie and Edward Curtice.

The Court: Those were taken on the 22nd of June 1918, and the ones in Glasgow were taken coincident with them, either a day or two before or afterwards. I submit that as to those, that those sections of the Revised Statutes must be applied.

The Court: Here is the certificate from the Under Secretary of State for India that these documents would be received for the same purpose in India.

Mr. Spearing: Yes, but the Revised Statutes require something else than that. The Revised Statutes, I submit, do not authorize the reception by this Court in evidence of any documents or any testimony that was taken after the warrant of arrest issued.

The Court: They do not?

Mr. Spearing: I think that the Revised Statutes is clear. The test is whether the documents offered in evidence would be admissible in the foreign country which requests the extradition, and the sufficiency of that evidence is a question to be decided by your Honor. I take it that your Honor can only receive the evidence taken in a  
116 foreign country and out of the presence of the accused, such evidence as is affirmatively authorized by the statute, and that you cannot receive in evidence any other testimony, whether it be oral or documentary. It seems to me that the language of this statute is so plain that it does not admit of two interpretations, and that my friend on the other side is entirely wrong when he says that your Honor is governed in the admissibility of the testimony by the certificate of the foreign officer. That certificate cannot control your Honor, unless, under the law of this country, that certificate is made sufficient for the purpose.

The Court: I will sustain the objection as to the depositions from Glasgow and London.

Judge Marr: I reserve a bill to the ruling of the Court.

Mr. Spearing: I further object to the certificate of A. H. S. Aston, Chief Presidency Magistrate on the Ganeshi Lall affidavits and the certificate of Chunilal H. Setalvad, Acting Chief Presidency Magistrate. I object to those certificates on the ground that the certificates are no part of the testimony or depositions which were taken upon which the warrant was issued, and are but the expression and conclusion of the persons giving the certificates, which is not justified by the law, and is not binding upon this Court.

The Court: I don't think it makes any difference one way or the other. I will sustain that.

117 \* CHARLES GLEN COLLINS, being duly sworn, testified as follows:

Direct examination.

By Mr. Spearing:

Q. What is your name?

A. Charles Glen Collins.

Q. You are the party referred to in these affidavits from India, which we have just been discussing?

A. Yes sir; I am.

Q. You were in India at the time these various transactions are alleged to have taken place?

A. Yes sir.

Q. Were you alone, or did you have anyone with you?

A. I had people with me.

Q. Who were they?

A. My fiancée, Mrs. Muntz, and her friend, Mrs. Olsen.

Q. You subsequently married Mrs. Muntz?

A. Yes sir.

Q. And that is the lady here, sitting in the court room now?

A. It is.

Q. Mrs. Olsen is dead, is she?

A. She died last Thursday in San Francisco, in a hospital outside of San Francisco.

Q. And you have been endeavoring to have her come here to testify in this case?

A. We did; certainly.

Q. And upon the day the case was fixed for a hearing last Friday, you received a telegram stating that she had died the day before?

118 A. Yes sir.

Q. Where was the party consisting of yourself and Mrs. Olsen and the present Mrs. Collins made up?

A. In Christiania, Norway, on August 30, 1916.

Q. What was the occasion of going to Christiania; who lived there?

A. Mrs. Olsen had a country home there, outside.

The Court: What is the purpose of this testimony?

Mr. Spearing: I am just leading up to show how this transaction came about, and the good faith of it, to disabuse the mind of the Court that anything like a false pretence——

The Court: Do you think that any testimony in defence is relevant, or anything of that sort?

Mr. Spearing: Why certainly, if I can prove he didn't make any false pretences.

The Court: It doesn't make the slightest difference if he did or did not. It is a question for the court in India.

Mr. Spearing: I submit, if I prove as a matter of fact, there was no false pretence——

The Court: I have nothing to do with that whatever. The question of identity and sufficiency of these depositions is the only thing before me.

Mr. Spearing: That simply means that we can't take any testimony whatever.

The Court: It does not make any difference if Colonel Collins should testify he made no false pretence, or anything of that sort. That is a question for the court over there, and not for this court.

Mr. Spearing: Of course if your Honor is going to rule that way, I will have to submit, but, with all due deference, I think your Honor is wrong.

The Court: I would like to see some case that says it is admissible.

Mr. Spearing: There are a number of cases which have gone up admitting testimony on behalf of defendant.

The Court: No question of defence can come before this Court in an extradition matter. That is a question for the court when the accused is tried in the country that requests his extradition. The only question here is the question as to the identity of the accused and the question whether or not he was in India at the time this alleged offence is supposed to have been committed. There are two things the defendant can show: either he is not the man wanted, or that he was not there at the time the offence is supposed to have been committed. Now he was there at the time and he admits he is the man.

Mr. Spearing: There is no doubt about that.

The Court: I will exclude everything else.

Mr. Spearing: To make up the record, counsel for the accused offers to prove that there was no false pretence on the part of this accused, but that, on the contrary, he made a full and absolute disclosure to the complainants, Pohoomull Brothers and Ganeshi Lall and Sons, and that they were fully advised of his financial condition and of the plans which he had, and the means which he had, of paying for these jewels.

The Court: What Colonel Collins is going to testify may be diametrically opposed to what the evidence is before me on these certificates, but I can't hear it.

Mr. Spearing: Will your Honor permit me to dictate into the record what I propose to prove by Mr. Collins.

The Court: Yes.

Mr. Spearing: I propose to prove by Colonel Collins that while Colonel Collins was in Christiania, Norway, he, in conjunction with Mrs. Olsen, by speculating in some shares of a steamship corporation, made a very large sum of money, approximately \$150,000, or thirty thousand pounds sterling in the current money of Great Britain; that, shortly after making the profit above mentioned, said Mrs. Olsen, Mrs. Muntz and Colonel Collins started on a trip of rest and recreation, Colonel Collins being previously engaged in an active and vigorous share, as Commander of the Howe Battalion of the

British Army, with the rank of Lieutenant Colonel, in what

- 121 is known as the Gallipoli Campaign during the war which started in July and August 1914, and is still in progress, and Colonel Collins having been invalided home on account of illness. That he had previously taken part in the Boer War, as an officer in the British Army. That after making this large profit above referred to, the party, consisting of himself, Mrs. Olsen and Mrs. Muntz, started on a trip; that among the countries visited by the said party as thus composed were Japan, China and British India; that while in Yokohama, Japan, during the month of October 1916, the said Mrs. Olsen and Colonel Collins had an interview with Mr. William H. Smith, a resident of the City of Boston, State of Massachusetts, at that time and now a resident of the City of St. Louis in this country, and at the time that the party were in Japan and China, Mr. Smith was temporarily located in Japan. That the accused and Mr. Smith had known each other some ten or twelve months previously and had done business together; that Mr. Smith sought an interview with the accused, and Mrs. Olsen was brought in because the profits which were made in the speculation or deal or transaction referred to were equally hers. That the said Smith stated substantially to the said Mrs. Olsen and to accused that he had the option to purchase certain very valuable oil leases in what was then known as the Goose Creek Oil Territory, a few miles out of the
- 122 City of Houston, State of Texas, and also certain other very valuable oil leases in or near the City of Tampico in the Republic of Mexico which were controlled by one Charles D. Mitchell, a resident of the City of Houston, State of Texas, who was at that time the Vice-President and General Manager of the American Petroleum Corporation, incorporated under the laws of the state of Delaware, but operating in the Goose Creek Petroleum oil Fields, near the City of Houston; that the said Smith represented to the said Mrs. Olsen and to accused that there was an opportunity to make exceedingly large profits out of the said oil leases and lands, but that he, the said Smith was unable to finance the same and desired to secure financial assistance from some person or persons who were able to give it, and who would share the profits with him; that though the said Smith was previously unknown to the said Mrs. Olsen, he was known to and had an acquaintance with the accused, they having met and had dealings on prior occasions in the City of Boston and the territory adjacent thereto, which were visited by accused in former years; that after conferences and negotiations, the said Mrs. Olsen, the said Smith and accused entered into an agreement in writing dated at Yokohama, Japan, the 27th day of October 1916, by which the said three parties associated themselves for the purpose of financing, promoting or selling said oil property or leases situated in
- 123 Tampico, Mexico, and in the Goose Creek Oil Section, and that with that end in view the sum of two thousand pounds sterling of British currency, or approximately ten thousand dollars American currency, was paid and handed to the said Smith for the purpose and with the understanding that he would leave for the United States to consummate the purpose which the said parties then had in view; that the said Smith did in fact shortly thereafter leave



for the United States, with the said purpose in view; that in due time it became necessary to make further advances to the said Smith, or the said Mitchell with whom the said Smith had gotten into communication and with whom he was negotiating for the acquisition of the said oil properties both in Texas and in Mexico; that with the consent and co-operation of the said Mrs. Olsen, the sum of twenty-five thousand dollars was cabled to the said Mitchell in connection with the said transaction; that the said parties had the said oil fields, particularly those in the Goose Creek Section, examined and received most favorable reports of their condition and of the probabilities of large returns and large profits from the transaction and the said Mrs. Olsen, the said Smith and accused determined and agreed with the said Mitchell to acquire from the said Mitchell the oil leases and properties above referred to; that the said Mrs.

124 Olsen and accused anticipated that they and the said Smith would make exceedingly large profits out of the deal; that at that time they were negotiating with George McBain, of Shanghai, China, representing a very large oil syndicate, which was practically the only real competitor of the Standard Oil Company, for the sale of the same options and property to the said McBain for his oil syndicate at a tremendous profit. We further offer to prove that the accused and his party reached Bombay, in British India, about the middle or latter part of December 1916. That intending to remain there for several months, they rented a bungalow residence on Mallabar Hill, adjacent to Bombay, Mallabar Hill being a very fine residence section of Bombay, where they established themselves; that while thus residing at the said residence, they visited the business establishment of Bohoomul Brothers, hereinafter called the complainants, and at various times purchased numerous articles for household and personal use of considerable value in the aggregate, for which the said Mrs. Olsen and accused respectively paid the said claimant, either in cash or by bank checks or bills of exchange, which, when presented, were duly paid; that the said purchases extended over a considerable length of time; that among the articles examined by accused was the jewelry referred to in the affidavit of the British Vice-Consul; that the said claimants persistently urged  
125 accused to purchase the same, notwithstanding accused's refusing to do so on the plea and for the reason as stated to said claimant, that accused did not have with him personally or to his credit at any place sufficient money to justify the outlay of the price of said jewelry for that purpose; that notwithstanding accused's explanation and statement that he was not then possessed of sufficient funds to justify the purchase of the jewelry in question, the complainants continued to press him to make the purchase, frequently visiting accused's residence above referred to with that end in view and offering to sell and deliver the jewelry to accused on credit; that accused explained to the complainants that he and the said Mrs. Olsen were engaged in the oil transaction or deal hereinabove referred to, and that if he realized the profits which he anticipated, he would be in a position and able to purchase and pay for the jewelry referred to; that the complainants offered not only to sell and deliver the

jewelry in question to accused on terms of credit, but offered and insisted upon selling other jewelry upon like terms; that upon purchasing the jewelry in question, accused paid the claimants twenty four hundred and sixty six pounds sterling British currency or its equivalent, on account of the jewelry.

We further expect to prove by the accused that the prices finally agreed upon in the transaction above referred to were only reached after much negotiation, amounting to haggling, and after and  
126 not until after the claimant was fully informed and advised on accused's inability to pay the balance of the price of the said jewelry in cash at that time and of his expectation of realizing large profits out of the oil transactions and deals hereinabove referred to.

We further expect to prove by the accused that even after the purchase of the jewelry referred to in the affidavit of the British Vice-Consul, the complainants continued to press and urge accused to purchase other and still more valuable jewelry from them on terms of credit, even sending their representatives with the jewelry to accused on board the steamer on which they left and to other cities which accused's party visited; that accused declined to accede to the requests of the claimants on the ground, and explaining to the claimants, that the said Mrs. Olsen and accused had not yet realized the profits which they anticipated from the oil transactions and deals.

We further expect to prove by the accused that neither he nor Mrs. Olsen nor Smith realized any profit whatever from the said oil deal, but that on the contrary the money which they invested therein is all lost through the machinations of Mitchell from whom they had an option.

We further expect to prove by the accused that accused did  
127 not represent himself to the complainants as a wealthy man, except in the manner hereinabove referred to; that he did not represent himself as a partner of the firm of William Collins Sons & Company of Glasgow and London, nor did he represent himself as being at that time a colonel in the Howe Battalion of the Royal Navy Division, though accused had been a lieutenant Colonel of said battalion, and had rendered other services to the Government of Great Britain in the war with Germany which was then being carried on, as well as in previous wars, and that accused did not represent to complainants that he had a right to draw a draft, or is entitled to additional credit, except in the manner and to the extent hereinabove set out.

The Court: I don't think any of that is relevant, Mr. Spearing.

Mr. Spearing: I also want to offer Mr. Smith as a witness.

The Court: He will testify on the same lines?

Mr. Spearing: As far as this refers to. Of course he was not present when the jewels were purchased.

The Court: He will only testify to this oil transaction?

Mr. Spearing: That is all.

The Court: All right.

Mr. Spearing: I will offer the witness, Mr. William H.  
128 Smith, presently residing in the City of St. Louis.

The Court: This testimony is offered for the purpose of

corroborating the testimony that Colonel Collins would have given regarding the oil transactions?

Mr. Spearing: Yes.

Mr. Spearing: I also offer the agreement and options referred to in the statement of — Colonel Collins would testify to, and the correspondence consisting of letters, telegrams and cables, substantiating the testimony as to the oil deals referred to in the statement of what he would testify to.

The Court: I will exclude that also.

Mr. Spearing: I also now offer in evidence letter from Ganeshi & Sons to Colonel Collins, dated at Delhi February 25th, 1917.

The Court: Was that after the charge was made?

Mr. Spearing: No; before the charge was made. The charges were made in the latter part of 1917, and this was coincident with the purchase of the jewelry.

Mr. Spearing: I also offer in evidence original letter from Ganeshi to Collins, dated February 17, 1917, and the original statement of account furnished to the accused by Ganeshi & Sons, dated February 21, 1917.

I also offer cablegram from Ganeshi & Sons to Collins, 129 cablegram being dated Delhi, February 25, 1917, addressed to Colonel Collins at Bombay.

The Court: I will exclude those.

Mr. Spearing: I offer original letter from the attorney or solicitors of Pohoomull Bros. of Bombay, dated July 12, 1917, addressed to Colonel Collins at the Manoir Hotel, and also an original letter from the same parties to Mrs. L. L. Muntz, bearing the same date July 12, 1917.

The Court: I think these are all irrelevant.

Mr. Spearing: Of course I am reserving an exception to the rulings of the Court.

The Court: All right.

Mr. Spearing: I also offer in evidence original letter from Pohoomull Bros., receipts and acknowledgments, by them dated as follows: February 27, 1917, being an acknowledgment of the check for 15,000 rupees, receipt dated February 27, 1917, being in the form of a letter of acknowledgment of a draft for four thousand pounds.

Also letter dated March 3, 1917, in reference to the draft, stating in substance that Pohoomull Brothers had instructed their bankers not to present the draft, also guarantee dated January 21, 1917, referring to a silk robe, and a statement showing the weight of certain jewelry.

The Court: I exclude that. Those are all along the line of showing it is a commercial transaction.

130 Mr. Spearing: Yes; purely and only a commercial transaction.

The Court: It was a commercial transaction?

Mr. Spearing: Certainly it was.

The Court: I will make the same ruling. I will exclude it all.

Mr. Spearing: I also offer in evidence numerous and various let-

ters and certificates, showing the military standing and title of the accused, before and after he was in India, but all before the charges were brought.

The Court: I think they are no more relevant than the others. I will exclude those. Is that all, Mr. Spearing?

Mr. Spearing: Yes sir.

The Court: I will look those documents over. I can't do it right now. Let the case go over until to-morrow morning.

Hearing resumed pursuant to adjournment.

Mr. Spearing: May it please the Court. At the risk of being thought entirely too persistent, I am going to simply call your Honor's attention to the provisions of the treaty between this country and Great Britain as to the form of trial, if your Honor will permit me to do so. I will read Article 10 of the treaty of 1842, which is the extradition treaty, or the treaty which contains the  
 131 extradition proceedings, the subsequent treaty or treaties merely adding to the crimes for which extradition may be had. It reads: "It is agreed with the United States and Her Britannic Majesty \* \* \* deliver up those charged with the following offences" (naming them). "Provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had been there committed." Provided that it shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found as would justify his apprehension and commitment for trial if the crime or offence had been there committed. And then it goes on giving the jurisdiction and so forth.

A case very much in point is in the 25th Federal, case of Kelly, which was a case in Minnesota, 25th Federal, p. 268. In re Kelly, the syllabus of which reads: "On the examination of the party before the United States Commissioner in the State of Minnesota in extradition proceedings under the treaty of 1842 with Great Britain," which is the one I just read there, "he has the right to examine witnesses in his own behalf." Now, there are other cases to the same effect—

The Court: Did you look at this case of Charlton?

132 Mr. Spearing: I looked at that case; yes.

The Court: You see that disposes of your contention about the examination that you request.

Mr. Spearing: I beg your pardon?

The Court: I say it disposes of your contention.

Mr. Spearing: You mean with reference to the calling of witnesses from another state?

The Court: Yes sir.

Mr. Spearing: It merely says it didn't change the rule of evidence that theretofore existed.

The Court: That was in August of 1882?

Mr. Spearing: Yes, that is the one I read, and it does say it doesn't increase the right to give testimony, but that was a case in New York, that case, and this is a case here, in Louisiana, where it is well known and axiomatic that the accused, before a committing magistrate has the right to put in any testimony in his own behalf, and the court, upon considering the testimony, determines whether or not he should be committed, and so your Honor must determine whether or not, upon all of the facts of the case, not merely an ex parte showing. This is more than a Grand Jury hearing. True in a Grand Jury—and that is referred to in the Charlton case—before

133 a Grand Jury there is no compulsion to hear witnesses on behalf of the defendant, or the accused, but this is an open hearing, this is not a Grand Jury hearing, and this is on a hearing, as I conceive the law, as though your Honor was sitting as a committing magistrate, and must determine in your position here whether or not this party must be committed to trial in India, and must determine that, not upon merely the ex parte testimony of those parties who live in India, but upon a hearing according to the laws of Louisiana, as it seems to me, as clearly set out in the extradition treaty. I submit with all seriousness, may it please the Court, where the treaty itself provides that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive of person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offence had been committed there.

Now suppose that were here, in this city, and that Colonel Collins stood charged by those gentlemen from India living here, with having bought those goods under false pretences, just as they have charged him with having done there, and Colonel Collins was hailed before the committing magistrate, whether it would be before the First or the Second Criminal Court, depending on which side of Canal Street the offence was said to have been committed,

134 he would determine whether or not by the testimony before him for the State and for the accused, the accused should be committed for trial. Now it is clear, if your Honor does not agree with me, that there are cases where a person is arrested, he cannot be taken out of that jurisdiction for trial on this charge—there is that case where the person was attempted to be taken to another state, because it was contended that the judge of that state was sitting closer, so far as miles were concerned, closer in distance to where the man was arrested than was the judge of the district in which the marshal was acting, and the court held that the man arrested be returned to the district—meaning the state—in which he was arrested, and that the trial must be held according to the laws of that state. In this case in the 25th Federal—and there are others along the same line—all of these cases have heard testimony—and in that case in Minnesota, the court held that, according to the laws of Minnesota, the person whose extradition was sought, was entitled, if he had been charged with the same offense in Minnesota, he was entitled, under the laws of Minnesota, to have a hearing and to put in evidence in his own behalf, and, under those circumstances, he was entitled to

do it on extradition proceedings. That is what we are seeking here.

If the rule were as your Honor ruled this morning, why it is  
135 easy to establish the identity of the person; Colonel Collins' identity can be established; there is no necessity of admitting it; there is no necessity of denying it, because it can be established he was there; there wasn't any question about that, and if those are the only two points that can be heard upon an extradition procedure, then I submit, if the Court please, that anyone who has a personal, professional or commercial claim against another, all he has to do is to make affidavit setting out facts and circumstances, and the party must be taken to that foreign country, whether close or near, to answer the charge there, with a result that no one knows. I submit that is not the law, and moreover, this country has sought to conserve and protect the rights of those who sought an asylum, and, if you will, whether it was justifiable or not, those who were found in the state, to give them the rights they would have if charged with a similar offence under the laws of that state where they may be. Take that testimony, your Honor, as before you there. It places this accused at a very very great disadvantage. True your Honor has held that it is admissible, and that the certificate as given is admissible, but your Honor must conclude that that is nothing but a lot of hearsay evidence. As I recall it, there is in this letter from those London  
136 solicitors to a man living in Bombay, telling their London solicitors, telling their clients in Bombay, what their investigations in London—not under oath—none of those letters are under oath—why they produce that letter to the judge in Bombay, and it is in the record, and your Honor has admitted it as though the man who is presumed to have written that letter had absolutely testified to the facts. You have a letter from a man by the name of Morser to Ganeshi & Sons, stating his investigation, and he finally concluded it was necessary to employ a private detective, and then you have the report of the private detective. Why if that is admissible, anybody that is found in this country—

The Court: The certificate says it would be admissible.

Mr. Spearing: It would not be admissible here.

The Court: The certificate says it would be admissible.

Mr. Spearing: I see, but it would not be admissible here. Your Honor has admitted it already because the certificate of the United States Consul is there, but if it is admissible here—

The Court: All of this evidence was admitted before the magistrate.

Mr. Spearing: The magistrate, yes, and the United States Consul has said that it is admissible there, but your Honor knows it  
137 would not be admissible here; your Honor would not admit that testimony here if the accused was charged with an offence here and it was attempted in this country to offer in evidence on any trial, civil or criminal, a letter from an attorney—

The Court: Yes, but they may have different rules of practice if they want to.

Mr. Spearing: If they want to, among their own citizens or citizens of other countries that are found there—they have got to submit to it; but this treaty, I submit, may it please the Court, is to the con-



trary; this treaty says that the hearing shall be—not according to the rules of the country seeking his extradition—but according to the rule of the country, the rules of the place, whether it be Louisiana or California or Ohio or Maine, the rules of the place where the accused is found.

The Court: But that still does not make this inadmissible.

Mr. Spearing: No sir; not under the certificate. I only mention that character of testimony that is in there to show what a hardship it is on the man who is arrested in a state like this and is sought to be taken to a place like India, where they admit testimony of that kind, and it may be that the officials, the high officials of Great

138 Britain and of this country, concluded that they wouldn't be willing to give up the person who is even temporarily in that country, even though, if you will, with a bad purpose, though in all seriousness I don't believe that the accused was here for a bad purpose, but they were not willing to give up the party unless after hearing, as it states here, according to the laws of the place where the fugitive or person so charged shall be found—and this is the place where he was charged and found, and this is the place that shall govern the manner of the trial, and not what shall or shall not be admissible under the laws of India. It is true that under the laws of this country, under those Revised Statutes 5271, inasmuch as the consul of this country has certified that under the laws of India that testimony is admissible, and inasmuch as your Honor has construed that that was the testimony upon which the warrant was issued, of course that is admissible here under that ruling; it would not be admissible if this was an original trial, admissible here, but I submit that is all the more reason why this accused and his witnesses should be heard, and then your Honor may conclude whether or not there is such a probable cause as would justify the turning over of this accused to an officer of the foreign government, to be taken back to India, where testimony of that character may be admitted against him. Take that report of the private detective in London, hearsay of the worst kind. It may be that that is

139 admissible in India. Your Honor knows, and I know, that it is not admissible here, though under your Honor's ruling, if the certificate is attached, it is admissible in this case.

The Court: I say, it is a settled rule of this Court that, in extradition proceedings, no matters of defence are admissible; there are only two questions that can be inquired into, the question of identity and the question of whether the accused was present in the demanding state at the time the crime was supposed to have been committed. It has been ruled that way many times. So far as I know, I have not been the first one that has ruled that way.

Mr. Spearing: In my investigation, I didn't come across any.

The Court: The question of foreign extradition is somewhat—this is the first case I have been called upon to hear myself, because usually it goes before the Commissioner, but that is a habeas corpus proceeding—

Mr. Spearing: Your Honor will recall that in this Charlton case,

that was under a treaty with Italy, and that is the way the court construed it, and in construing this section of the Revised Statutes—

The Court: The treaty with England is the same.

Mr. Spearing: There is a little difference.

140 The Court: No material difference.

Mr. Spearing: The court says there is not and cannot be any uniform rules as to when an examining magistrate shall hear the witnesses produced by the accused person. The proceeding is not a trial; it is confined to a single question, whether the evidence presents a *prima facie* case sufficient to hold the party for trial.

The Court: That is usually regulated by local statutes. The local statute here does regulate that and does admit the testimony.

Mr. Spearing: Your Honor knows, of course that in these extradition proceedings, after it leaves this court, it is different from what is ordinarily the course, because the only way you can get an appeal is by a habeas corpus; there is no appeal or writ of error in the technical sense.

The Court: Unless you have the right to apply to the Secretary of State.

Mr. Spearing: We have no right to appeal to the Secretary of State in the sense that we take an appeal from the judgement of a court.

The Court: Well, I don't know in that sense exactly, but I imagine that you would have the right to apply to the Secretary of State and there present such evidence as he cares to hear. The governor

141 of one state, the governor of Mississippi, sent a request for the extradition of a fugitive from the State of Mississippi, why the governor of the State of Louisiana would have authority to hear and determine whether or not to issue the warrant or not, upon the warrant of the magistrate of the demanding state. I don't know whether you have that right to appeal to the Secretary of the United States or not.

Mr. Spearing: I don't know. There is no provision which requires or permits that as a legal right. The only thing to be done would be to make certain representations to the Secretary of State.

The Court: Why don't you make those representations?

Mr. Spearing: The representations of the judge who heard the case are entirely and essentially different. There is no testimony heard in the sense of a trial, before the governor of the State; all that he requires is that there has been a warrant of arrest, that there has been an affidavit and a warrant of arrest, and if the accused is in the State. Now it has happened again and again that the governor of a state has said "No, I will not deliver up this fugitive." Your Honor will recall the well known case; I think it was a man by the name of Taylor, connected with the accused governor at the time of

142 Kentucky, when Goebel was killed. He fled over to the other side *side* of the line, and the governor of Indiana says, "No, I will not give up Mr. Taylor; you can't take him into Kentucky for a trial." That was long after the close of the trial of the case. The laws of the various states are practically the same, and a man tried in Louisiana—I am talking now about a man against whom there is no local prejudice, as there was undoubtedly against Taylor in that instance—he is just as apt to get a fair trial in one



state as he is in another, I know of one case when Governor Hall——

The Court: Isn't Colonel Collins just as apt to get as fair a trial in India?

Mr. Spearing: In my judgment, no sir. The very fact that they admit in evidence a letter from the complainant's counsel or solicitor to him, a letter from a friend of his telling his conclusions from investigation that he has made, and a report from a so-called private detective, the fact that they admit all of that in evidence, to my mind, I think, is conclusive evidence that he could not get a fair trial, because if that evidence is admissible there, he cannot get a fair trial there, and he cannot get a fair trial any where where they admit that.

The Court: What about taking testimony in foreign countries by commission?

Mr. Spearing: Oh, they may take testimony, if the court  
143 please, but these are *ex parte* statements.

The Court: I don't know if they are admissible in the trial on the merits there; they are admissible before the committing magistrate for the purpose of starting the proceedings, just as evidence on information and belief would be admissible before me for the purpose of starting these extradition proceedings. This was brought out in the Charlton case. Charlton made a strong effort to resist extradition. When he went back he was acquitted of the crime of murder; he was found guilty of manslaughter and sentenced to one year.

Mr. Spearing: But in the Charlton case there was no attempt to introduce testimony that he was not *prima facie* guilty. The testimony there was as to something subsequent to the commission of the offence.

The Court: It was a matter of defence.

Mr. Spearing: But that did not enter into the *prima facie* case. There is no situation where a man, if he is inclined to do so, cannot make out a *prima facie* case. Your Honor knows that, of course, in your practice and in your judicial proceedings, just as does any other lawyer. Now these men make out a *prima facie* case, to a very great extent, if not entirely, by, not testimony, but the statement of these  
144 witnesses, so called, in London, who have made these investigations, and the question comes up, how these witnesses are here and how they are going to get over to India, and I urge your Honor that this Charlton case merely follows the general rule, that it is the character of the law that is to control in the place where the accused is found.

The Court: Let's see what these people say here.

(Documents handed to Judge, who peruses same.)

Mr. Spearing: That letter from Morser and that report of the private detective are in the Ganeshi matter. I don't think they are in the Pohoomull matter. There are the letters.

(Counsel hands documents to the Judge.)

The Court: That is what I ruled out, is it not?

Mr. Spearing: No; it was this that you ruled out.

Mr. Spearing: This is a letter from Harry Morser to Ganeshi Lall, and here is the report of the so called private detective to whom he referred the case in London.

The Court: How much is the rupee to the pound?

Mr. Spearing: I don't know sir.

Judge Marr: Fifteen. Your Honor will observe there is nothing in any of the evidence that would indicate a value, that is, that the Court would know anything about—I am not talking about

145 the individual who occupies the bench, but I don't know if the Court will take judicial notice of the pound.

The Court: Sure; I will take notice of what a rupee is, that is, its approximate value. I couldn't take notice of the actual rate of exchange.

The Court: All right, Mr. Spearing. I have read the evidence now.

Mr. Spearing: I assume your Honor has not changed your mind with reference to the admission of this testimony that I offer?

The Court: No.

Mr. Spearing: Then I submit, if the Court please, that the record as made up doesn't show any offence, criminal in its nature, and that this is an attempt on behalf of those jewelers;

The Court: There are three different people. He went to one man and bought certain lots of jewelry and gave them a check for five hundred pounds, which was paid, gave a draft for two thousand pounds on Curtice & Co., or whatever it was, and gave them a promissory note. Now that Curtice note or draft was not paid and came back with the notation "Not authorized to draw." Before he gave that, the evidence shows that he went to the International Bank, and they suggested that he send a telegram to have his agents in London pay the International Bank sufficient funds to cover this

146 other draft—what was it, five thousand pounds?

Mr. Spearing: Five thousand pounds was the Pohoomull matter.

The Court: He came back and he told the men that he had sent the amount, that it was all right and that the money would be paid, and they accepted the draft, and then the money was not paid. That draft was dishonored, "No authority to draw." Now, take those two transactions just by themselves, that makes a clear case prima facie of obtaining goods by false pretences.

Mr. Spearing: In the Ganeshi matter the amount involved was four thousand five hundred pounds, of which he paid five hundred pounds in cash.

The Court: Paid five hundred pounds.

Mr. Spearing: Paid five hundred pounds; he gave his note for two thousand pounds and gave a draft on Curtice & Co. for two thousand pounds in the Pohoomull matter—

The Court: Well, I attach no particular importance to the note. A man might give his note and for various reasons might not be able to meet it; that is a mere promise to pay.

Mr. Spearing: Well, isn't a time draft the same thing?

The Court: I don't think so.

Mr. Spearing: There was a time draft there also.

147 The Court: A draft is exactly like a check on a bank. A man has no business to draw drafts unless he is authorized to draw them.

Mr. Spearing: The difference between a draft, may it please the Court, and a check on a bank is that the check on the bank is a promise to pay at sight, is an order to pay at sight; a check is entirely separate and distinct from a draft in that it is an immediate order and presumes that the amount is there at that time. A time draft—and in each instance these were time drafts—does not carry with it a suggestion that there are any funds in hand at that time, but it is merely like—

The Court: Carries with it the suggestion that he is authorized to draw; whether it is a time draft or a sight draft, it doesn't make the slightest difference. If this case was tried before a jury, and there was no evidence that he told this man from whom he bought the jewelry that this draft would be paid, and the draft came back with the notation "Not authorized to draw," and nothing else but that, the jury would be warranted in finding him guilty.

Mr. Spearing: I submit that would not be so on a time draft, because a time draft is nothing more than a promise that when it matured it will be paid, just as a term note is, and I submit—

148 The Court: Will be paid by the person on whom it is drawn.

Mr. Spearing: It will be paid and there will be money there to pay it.

The Court: That he was authorized to draw it and it will be paid, and it also imports that the party on whom it is drawn will accept it for payment when it is presented.

Mr. Spearing: There is nothing patent here, even on that ex parte statement, showing that it was ever offered for acceptance, any pretence that it was ever offered for acceptance, or that anybody ever indicated that it was to be presented for acceptance?

The Court: It was presented for payment and returned with the notation he was not authorized to draw.

Mr. Spearing: And then it was presented again. In one of those, and I think in both of those, the telegram of the accused to both of these parties that he hadn't completed his financial arrangements and not to present the draft for another sixty days—that is all in there. In the Pohoomull matter the amount was larger, and he first gave a draft on Curtice for five thousand pounds, but that draft was subsequently surrendered so they testify—they apparently had it still in their possession—at all events, it was cancelled.

The Court: They gave a fifteen thousand — check to pay back to him when the draft was paid, and it was in that transaction  
149 that he made the statement about having telegraphed, that the money would be paid to the agents of the International Bank in London.

Mr. Spearing: I think your Honor will find—

The Court: Of course the point applies in the other one.

Mr. Spearing: I think not. In that transaction, it was the first

draft for five thousand pounds that was taken to the International Bank, and then they suggested that cablegrams be sent to ascertain if that would be paid, and it was after that that that draft was cancelled, the one thousand pounds was paid and another draft on Collins & Co. for four thousand pounds was given. That was that transaction. Now it seems to me that this also—I must necessarily be confined in the argument before your Honor to what is shown in those affidavits—those affidavits also show that these parties had other transactions, and I submit the conclusion is very clear: It is merely a bargain and sale on credit.

The Court: All these transactions were just at that time?

Mr. Spearing: And the other transactions at that time preceding that.

The Court: All within the space of a few days.

Mr. Spearing: Comparatively few days; a week or two; may be two weeks, and those transactions were all paid, the goods were  
150 paid for, and there is no question about that, and here these goods subsequently were purchased, and when you come to Pohoomull, that testimony indicates that it was nothing more nor less than a commercial transaction, a bargain and sale upon terms of credit.

The Court: Induced by false pretences.

Mr. Spearing: Of course if your Honor concludes it was false pretences, but I am trying my best——

The Court: It is quite patent on the face of the papers. Here is a man buys some ten thousand pounds' worth of jewelry, nine thousand pounds' worth of jewelry or something like that, and drew drafts on people that returned them with the notation that he was not authorized to draw, why it is fraudulent on the face of it. There is no reason why anybody should buy jewelry unless you have got the money to pay for it; buying flour or something else, why it would be different, but with pearl necklaces and things of that sort——

Mr. Spearing: I submit that the character of the goods purchased does not affect the criminality of the act in the least.

The Court: Not in the slightest, but it has some effect on the testimony.

Mr. Spearing: If a person goes down to one of the jewelry  
151 stores here and buys a large amount of jewelry on the representation that he is wealthy and will pay for it at a future date?

The Court: That is a different thing. If he goes down and represents himself as a wealthy man and will pay at a future date, that may or may not be a case of fraud, but when he goes and says "I will pay you now, not in the future, but I will give you a draft right now; I have telegraphed these people and they have deposited money in the International Bank and the money will be paid," that is just like giving a check on a bank. It is not a credit transaction at all, that is a cash transaction, and when he is not authorized to draw those checks, why it is clear fraud; there is no other way to state it. It makes no difference whether Lieutenant Colonel Collins was or was not—I put all that to one side. Here is evidence tending to show he was an undischarged bankrupt and those sort of things, but just on that

transaction itself, buying these articles of jewelry and giving drafts, which drafts were returned with the notation "Not authorized to draw," I say that makes a prima facie case of fraud, obtaining goods by fraudulent pretences.

Mr. Spearing: Of course if your Honor has reached that conclusion, there is nothing that I can say that can change your conclusion.

The Court: Not a thing; there is nothing you can say to  
152 change my conclusion on that state of facts.

Mr. Spearing: That is the only state of facts before you, because your Honor will not permit any other than those facts to go in. In my statement I said he didn't represent that he had the right to draw the drafts.

The Court: That is a question for the jury over there.

Mr. Spearing: That evidence is not in. There is not any doubt apparently about the amounts he paid, and decidedly there is no doubt that this man told those people "I am in this oil deal and I expect to have the money then; I have not got it now; I expect to have the money then and have funds to pay this amount." There is not a particle of doubt about that, and there is no more criminality about that than if I were to go into a bank and buy ten thousand dollars' worth of jewelry, and say "I am in a deal by which I expect to make fifteen or twenty thousand dollars"——

The Court: That is all a matter of defence that will have to be made to the court in India.

Mr. Spearing: Unfortunately it does not go to England.

The Court: I said India.

Mr. Spearing: It goes to India, where, with all due deference——

The Court: They have trial by jury there.

153 Mr. Spearing: I assume so, probably native Indians.

The Court: By a jury of white men.

Mr. Spearing: Frankly, I don't know whether it is by a jury of white men; I think not; I don't know whether it is or not.

Judge Marr: The Inspector of Police told me all Europeans were tried by white men.

The Court: I know that.

Mr. Spearing: One of the judges that signed these orders is an Indian, a native Indian.

The Court: Well, they don't try Englishmen with native juries.

Mr. Spearing: Well, I don't know about that.

The Court: I know they don't. He has just the same opportunity of making his defence there; that is where he is charged and that is where he ought to make it.

Mr. Spearing: The case I have here is one where the Court there, the Supreme Court, 187 U. S., held that extradition proceedings should not be used as a means of collecting debts.

The Court: No doubt about that; I don't think so either.

Mr. Spearing: I submit there is nothing in any of these papers except that these men want to collect a debt which is due by——

The Court: I have no doubt if they had been paid they wouldn't have made the charge.

154 Mr. Spearing: I have no doubt if they were paid now, they would withdraw the charge.

The Court: Then why not pay them——

Mr. Spearing: For a very good and sufficient reason——

The Court: —give them back the property or something.

Mr. Spearing: For the very good and sufficient reason, because they have not the cash with which to do it. With all frankness; they have been arranging to get it.

The Court: Haven't they got the property that they bought?

Mr. Spearing: They have not got it so it can be delivered, no sir.

The Court: It is unfortunate. There is nothing for me to do but to hold Colonel Collins for extradition. I will make such order and I will facilitate you in any way in making up your record you want to. Of course you can still apply for a habeas corpus, if you get busy right now. There are two circuit judges here now, with jurisdiction in a case of that kind, and if they turn you down, you can go to the Supreme Court of the United States, but they will be leaving here on Saturday, and they won't be back until some time in the latter part of November.

155 *Affidavit of Complainant, Exhibits, Certificates, and Deposition- of Witnesses.*

UNITED STATES OF AMERICA:

*State of Louisiana, Parish of Orleans,*

*City of New Orleans:*

Before me, the undersigned authority, personally came and appeared Tom F. Carlisle, who being by me first duly sworn, deposed and said that he is British Consul General at the City of New Orleans; that he is informed and being so informed verily believes that Charles Glen Collins having committed the crime of obtaining property by false pretences, stands charged in the Chief Presidency Magistrate's Court, at Bombay, India, with having, on or about February 26th, 1917, fraudulently, falsely and feloniously pretended to Mahomed Ali Zainal Ali Raza, at Bombay, India, that he, the said Collins, was a wealthy man, a partner in the firm of William Collins Sons & Company, of Glasgow & London; that he was a colonel in the Howe Battalion of the Royal Naval Division; and was then on six months' leave; that he, the said Collins, then and there had a right to draw a draft for seventeen hundred pounds on Messrs. E. Curtice & Company, 8 Clarges Street, London, and consequently that said draft would be paid; that the said E. Curtice & Company were bankers; whereas, in truth and in fact, as he, the said Collins, then and there, well knew, he, the said Collins, was not then and there a wealthy man, but on the contrary was a bankrupt; that he was not and never had been a partner in the firm of William Collins Sons & Company; that he was not a Colonel in the Howe Battalion of the Royal Naval Division and was not then and there on six months' leave; that he, the said Collins, had no right to draw a draft for two thousand pounds or

156 for any amount on said Messrs. E. Curtice & Company, and said Collins then and there well knew said draft would not be paid; that the said E. Curtice & Company were not bankers;

That by means of said false, fraudulent and felonious pretenses, said Collins then and there obtained from said Mahomed Ali Zaimal Ali Raza one pearl button of the price and value of seventeen hundred pounds, of the property and goods of the said Mahomed Ali Zaimal Ali Raza, which said pretences were to the knowledge of said Collins at the time of making same, false and fraudulent; and affiant further says that the said Collins is presently within the City of New Orleans, and within the jurisdiction of this Honorable Court, and that this affidavit is made in behalf of the British Government, for the purpose of having returned to India for trial, the said Collins.

And affiant further states that the source of his information and belief, upon which information and belief this affidavit is based, is as follows:

The evidence taken on said charge in the Chief Presidency Magistrate's Court, at Bombay, India, duly certified according to the provisions of Section 5271 of the Revised Statutes of the United States; the evidence taken before Sir John Dickinson, Knight, Bow Street Police Court, London, and the evidence taken before Alexander Duff Thompson, at Glasgow, salaried Sheriff of the Sheriffdom of Lanarkshire, duly certified according to the provisions of Section 5271 of the Revised Statutes of the United States.

(Signed)

T. F. CARLISLE.

Sworn to and subscribed before me this 8 day of November, 1918.

(Signed)

RUFUS E. FOSTER, *Judge*.

157

*Certificate.*

Calcutta, India, April 8th, 1918.

I, James A. Smith, Consul-General for the United States in Calcutta, hereby certify that the annexed papers being (1) a warrant of arrest, and (2) copies of prima facie proceedings in the court of the Chief Presidency Magistrate, Bombay, proposed to be used upon an application for the extradition from the United States of Lieutenant-Colonel C. G. Collins, late of the British Army, charged with the crime of obtaining valuable property by false pretenses alleged to have been committed in Bombay, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of British India, as required by the Act of Congress of August 3rd, 1882.

[SEAL.]

(Signed) JAS. A. SMITH,

*Consul General of the United States of America*

*at Calcutta, India.*

158

*Certificate.*

In forwarding the annexed papers to be used in support of an application for the surrender from the United States of Lieutenant



Colonel C. G. Collins, late of the British Army, charged with the crime of obtaining valuable property by false pretences, committed in British India, I hereby certify that, to the best of my knowledge and belief, the signatures "A. H. S. Aston" on the warrant of arrest, and on the information and depositions on which was granted, are the signatures of Arthur Henry Southcote Aston, a Magistrate in British India, having authority to issue and receive the same, and I further certify that such documents so signed by a Magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Secretary to Government and sealed with his official seal, would be received in evidence for similar purposes in the Tribunals of British India.

[SEAL.]

(Signed) A. H. GRANT,  
*Secretary to the Government of India,  
 in the Foreign and Political Department.*

Simla, the 2nd April, 1918.

159

Case No. 1463/P. of 1917.

No. 1463/P. of 1917.

To Arthur Fuller, Inspector of the Bombay City Police Force, Bombay:

Whereas one Lt. Col. Charles Glen Collins stands charged with the offence of obtaining property by false pretences at Bombay under section 420 of the Indian Penal Code in respect of a pearl button value 1 at £1700 the property of Mahomed Ali Zaimal Ali Raza.

You are hereby directed to arrest the said Lt. Col. Charles Glen Collins and to produce him at the Chief Presidency Magistrate's Court at Bombay or before such Presidency Magistrate as may then be present.

Herein fail not.

Dated this 1st day of December 1917.

[SEAL.]

(Signed)

A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*  
 E. J. M.

160 In the Court of the Chief Presidency Magistrate, Bombay.

In re MAHOMED ALI ZAIMAL ALI RAZA, Complainant,

vs.

LT. COL. CHARLES GLEN COLLINS, Accused.

Charge: Cheating, Sec. 420, I. P. C.

I the undersigned being Chief Presidency Magistrate of Bombay hereby certify that the typed matter contained in the foregoing 17



pages of per is a true copy of the depositions of Mahomedali Zainal Ali Raza, Kaikhushru Dadabhoy Rustonji Dady, Brijmohaklal Lalla Ramkisonadas and John Mathew Perreira sworn and taken before me on the 1st day of December 1917 and of the list of Exhibits and of Exhibits thereto marked A, B, C, D, E, F, and XI and of my certificate.

Given under my hand and the seal of the Court this First day of December 1917.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

E. J. M.

161

Case No. 1463 P of 1917.

EXHIBIT No. —.

*Deposition of Witness No. — for the —.*

I do hereby on solemn affirmation state that—

My name is Mahomedali

Father's name Zainali Ali Raza

Religion Mahomedan

Caste Arab

Age about 38

Occupation Pearl and Grain Merchant

Residence Sitaram Gully

District Hornby Road

Examination-in-chief:

I know Mr. Dady. In January 1917 he came to me and gave me certain information. In consequence of it I accompanied him to Malabar Hill. I saw Lt. Col. Collins and Mrs. Olga Olsan. I took pearls with me. I showed accused a bunch of pearls. He selected some pearls. I had them made up. I think there was some conversation about giving credit at the first interview but I am not quite sure. After the necklace was made up I went to Col. Collins again. Mr. Dady was present. Mrs. Olga Olsan was present and Col. Collins and Mrs. Muntz. Col. Collins was speaking with me through Mr. Dady because I don't know English properly. I understood that Col. Collins was a big man and very wealthy and partner of Messrs. Collins and Sons. He also gave me a diary saying it was the diary of their office. This is like the diary he gave me marked X for identification. He said he had many shares worth thousands of pounds. He told me Mrs. Olsan was very wealthy. He produced a letter purporting to show that Mrs. Olsan had £14000 to her credit at a London Bank. He took Mr. Dady aside and spoke about payment. I thought Mr. Dady was a big man also and I believed the representations made to me and agreed to give the pearls on credit. Col. Collins chose a pearl button for himself from me. He saw the pearl button from the beginning and liked it. He said he would come back and purchase it after he had visited his

162

Rajah friends. On February 26th I went to see him again — Malabar Hill. He took the pearl from me that day. He asked me to give that for credit also. It was a pearl of 52 Chavs and  $38\frac{3}{4}$  cents 8 carats 93 cents. I sold it for £1700. He gave me a cheque for the pearl. I promised not to present it for 70 days until the 5th May. I paid in the cheque to the International Banking Corporation for collection. The cheque has been sent to London. I received this letter from the International Banking Corporation Ex. A. The cheque was drawn on Messrs. C. Curtice and Company 8 Clarges Street London.

If I had known accused was an undischarged bankrupt I would not have accepted the cheque. I believed accused's representations that he was a partner in William Collins and Sons. If I had known C. Curtice and Company was a boarding house and not a Bank I would not have accepted the cheque. Nothing has been paid to me.

True copy.  
[SEAL.]

(Signed)

A. H. S. ASTON,  
Chief Presidency Magistrate, Bombay.  
E. J. M.

163

EXHIBIT No. —

*Deposition of Witness No. — for the —.*

I do hereby on solemn affirmation state that—

My name is Kaikhushroo	Father's name Dadabhoj Rustomji Dady
Religion Zoroastrian	Caste Parsi
Age about 35	Occupation Commission Agent
Residence Waterloo Mansions	District ———

Examination-in-chief:

I know complainant. I know Col. Collins. A friend of mine Mr. Furdunji came to me and told me that a friend of his Col. Collins wanted to buy some pearls and wished me to call on him. He gave me a letter of introduction to Col. Collins. I went there about the end of January or beginning of February 1917. I went to the Bungalow at 8 Harkness Road Malabar Hill. I saw Col. Collins, Mrs. Olsan and Mrs. Muntz. Col. Collins introduced me to the ladies. Col. Collins talked about buying pearls for a pearl necklace. I said I know a party who had a very large stock of pearls. Col. Collins said he wished to buy pearls up to £6000. I called on complainant after that. Next day we both went to Col. Collins' bungalow. Mrs. Muntz was not present. Mrs. Olsan and Col. Collins were there. Mrs. Olsan selected a string of pearls out of a large mass of pearls shown to her. She wanted the complainant to make them up into a necklace. At this particular time after complainant had gone downstairs accused broached the subject of credit. I told him I

would ask the complainant and let him know. I mentioned the matter to complainant in the motor on the way back. Complainant asked me to make enquiries and let him know whether he  
 164 was a desirable person to whom to give credit. I consulted Mr. Furdunji. He gave me certain information. After that we went to Col. Collins with the necklace and some other pearls. Both ladies were present and Col. Collins *Col. Collins* showed us a necklace which Mrs. Muntz had on. Col. Collins liked a button which complainant had. It was subsequently sold to Col. Collins for £1700-. During the negotiations Col. Collins gave us 2 diaries one for complainant and one to myself. Shown X and another diary. These are they put in Ex. B. and Ex. C. Accused wrote in the diaries. He said William Collins and Sons was his firm, that he held a considerable number of shares, that he was a partner in the firm, that he was on 6 months' leave and would not take an active part in the business. This took place on the 26th February. Accused gave a demand draft to complainant asking him to present it 2 months later. So far as I know it has not been realised. The accused Col. Collins seemed a tall man, square jawed, with fair hair. I think his eyes were grey. I seldom saw him smile. He seemed to have a very serious face. He was clean shaven. He used to walk quite straight. He was dressed well but not showily. He appeared to me to dress rather quietly. He has a long face and a square jaw.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

E. J. M.

165

EXHIBIT No. —,

*Deposition of Witness No. — for the —.*

I do hereby on solemn affirmation state that—

My name is Brijmohanlal

Father's name Lala Ramkison-  
das

Religion Hindoo

Caste Khatri

Age about 25

Occupation Jeweller

Residence Calcutta

District ———

Examination-in-chief:

I am a complainant in another case against Col. Collins. I had correspondence with friends in London regarding the accused. I had enquiries made. My friend Mr. Harry Mosar wrote me this letter Ex. E enclosing this report Ex. F. The letter bears Mr. Harry Mosar's signature. I know it.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

E. J. M.

166

EXHIBIT No. —.

*Deposition of Witness No. — for the —.*

I do hereby on solemn affirmation state that—

My name is John Mathew	Father's name Parreira
Religion Christian	Caste
Age about 50	Occupation Assistant International
Residence Mazagaon	Corporation, Bombay.
	District —

Examination-in-chief:

On the 27th February 1917 I received a draft for £1700 on Messrs. G. Curtice and Company signed by C. G. Collins for collection. I produce a certified copy of the entry in the ledger marked XI. The draft is lying unpaid at our London House.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

E. J. M.

167

*List of Exhibits in Case No. 1463/P. of 1917.*

- X. Diary of Complainant's Haji Abdulla Ali Raza.
- A. Letter from International Banking Corporation dated 10th May 1917 to complainant.
- B. Name of the Colonel in the diary.
- C. Name of Mrs. Olga Olsan.
- D. Name in 2nd Diary written by the Colonel.
- E. Letter.
- F. Report.
- XI. Certified copy of the entry in the ledger.

(Sd.)

P. DAVID,

*Judicial Clerk,**Chief Presidency Magistrate's Court, Bombay.*

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

E. J. M.

168

Ex. A.

International Banking Corporation.

Bombay, 10th May, 1917.

Haji Abdulla Aliraza, Esquire, Bombay.

C. G. Collins Bill on G. Curtice &amp; Co. £1700 Our No. B. C. 17/211.

DEAR SIR: We have received cable advice from our London Manager stating that the above is unpaid. The reason given for dishonour is "no funds."

Please instruct us and hand us Rs. 73/12/ as under at your earliest convenience:

1/4 % Commission on £1700.....	Rs. 63-12-0
Cost of London cable.....	Rs. 10- 0-0
	<hr/> Rs. 73-12-0

Any further charges in this connection will be received from you on receipt of advice from London.

Yours faithfully,

(Sd.)

— — —, *Manager.*

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*  
 E. J. M.

169

Ex. B.

Lieut. Colonel C. G. Collins,

Charles G. Collins,

C. M. G.,

c/o Messrs. Wm. Collins Sons and Co., Ltd.,

Glasgow, Scotland.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*  
 E. J. M.

170

Ex. C.

Mrs. Olga Olsen,  
3 Bryanston Square,  
London, W.

True copy.  
[SEAL.]

(Signed) A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*  
E. J. M.

171

Ex. D.

Lieut. Col. C. G. Collins,  
Charles G. Collins,  
C. M. G.,  
c/o Messrs. Wm. Collins Sons and Co., Ltd.,  
Glasgow, Scotland.

True copy.  
[SEAL.]

(Signed) A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*  
E. J. M.

172

Ex. E.

Harry Morser.

37 Hatton Gardens,

London, 28th September, 1917.

Mr. Ganeshi Lali, Agra.

MY DEAR FRIENDS: I beg to acknowledge receipt of your esteemed letters and different cables and confirm my different cables which no doubt you have received. I had to postpone writing to you fully until such date when I should be in a position to give you full information regarding Collins. If you have not heard from me at once in answer to your cables, please do not think for one moment that I have neglected the matter but I simply did not care to telegraph unless I had definite news. I also had the visit to Messrs. Sanderson's Solicitors whom I have given every information and assistance that I could. I personally did my very best to find out all I could about this man, but when I saw that such channels as I should be compelled to use were close to me I considered it in your own interest to employ a private detective who has far more facilities than I have. I found this man in Mr. Brewster Kemp who has been 35 years with Scotland Yard, I arranged with him the fee and his investigations are embodied in the enclosed report a copy of

which I have given to your solicitors. I am extremely sorry that you have been the victim of a swindler, and up to the time of writing it has been impossible to find out where Collins is. Mr. Kemp is now working hand in hand with your Solicitors and you may rest assured that everything is being done and watched by me in your interest. My opinion is that when Parliament is sitting again to approach his brother who may settle the matter. At present  
 173 the whereabouts of his brother are unknown, but he is sure to come to London when Parliament opens. I am enclosing herewith a statement of my expenses, and I should be very glad if you will kindly remit same. I trust and pray that you may be spared this heavy loss and you can rest assured that everything is being done in your interest. I hope you are enjoying excellent health.

With kindest regards from my family to you and yours,  
 I am always,

Your sincere friend,

(Sd.)

HARRY MORSER.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,  
*Chief Presidency Magistrate, Bombay.*

E. J. M.

174

Ex. F.

Private and Confidential.

The Holborn Stadium.

35 High Holborn, W. C. 1.

13th September 1917.

Re Charles Glen Collins.

Henry Morser, Esquire, 37 Hatton Garden, E. C. 1.

DEAR SIR: I have to report that, acting upon your verbally conveyed instructions, having made inquiries respecting the above man, the information I have been able to obtain so far is as follows:

He is a member of the family of William Collins Sons and Company, Publishers and Stationers, who carry on business in Glasgow, London and Australia, but he is in no way connected with the business. He is one of four brothers, two of whom, Godfrey and William, are Directors of the firm in question.

He formerly obtained a commission in the Gordon Highlanders and served with distinction in the Boer War. He subsequently went to the United States, where he married a Miss Wheeler, daughter of Mr. Wheeler, a member of a famous sewing machine manufacturing firm.

At the outbreak of war with Germany, he joined the Naval Brigade and was appointed to the Command of the Howe Battalion,

and served during the Gallipoli campaign; he eventually returned to London and lived at various addresses.

The address: 51 South Street, Park Lane, is a large block of residential flats. He has never lived there; he occasionally  
175 visited a Mr. and Mrs. Muntz. Mr. Muntz is believed to have served with Collins as a brother-officer in the Gallipoli Campaign. He divorced his wife and Collins was cited as the co-respondent.

Collins and Mrs. Muntz suddenly left the country together and went to Colombo, thence to Bombay; later to New York and they were recently heard of in Norway. It is believed that Mrs. Muntz has been working with him in India, contracting these debts.

Charles Glen Collins was adjudicated a bankrupt in this country on the 19th August 1904, with heavy liabilities. A second petition in bankruptcy was filed against him in 1916, but he did not surrender to his examination.

On the 16th March 1912 he was arrested for obtaining money by means of worthless cheques at the Victoria Hotel, Sligo, but the charge was subsequently withdrawn and it is supposed the matter was settled by his friends.

He is also believed to have obtained money by means of worthless cheques in Vienna.

One of his brothers is Major Godfrey Patterson Collins, former Secretary to Colonel Seely, and now private secretary to Mr. Gulland, M. P., who is a Liberal Whip to the present Government.

I am informed that Mrs. Collins is about to divorce her husband in New York.

Mrs. Muntz is the daughter of a Mr. Benn, a very rich iron founder and I am seeking an early interview with him and also with Major Godfrey Collins, with a view to obtaining, if possible, the present address of Charles Glen Collins and possibly a settlement of this account or some security for it.

I understand that the Official Receiver recently obtained possession of some shares left to Collins under his grandfather's will and these have been disposed of for the benefit of the Creditors.

I have interviewed Mr. Edward Cutrice of 8 Clarges Street, Piccadilly, who has furnished flats at this address; he also has the Curzon Hotel, Broadstairs, and the Philbeach Private Hotel, Kensington. He informed me that he has known the Collins

176 family for many years, especially Charles Glen Collins. The last he heard of Collins was from Bombay, when he, Collins, informed him that he proposed purchasing certain Oil properties in South America; later he sent word by a friend (unknown to Cutrice) that he was forwarding to Cutrice a sum of £11000 to cover certain liabilities contracted. This money, however, has not yet arrived, but Cutrice states that he is expecting to hear from Collins in the near future, and has promised to acquaint me at once should he hear.

Mr. Cutrice states that he was not aware that the Bill had been drawn on him until someone called to collect it.

I am pursuing the inquiry with a view to learning the present



whereabouts of Collins and I hope to be able to obtain this information very shortly when a further report will be submitted.

I am, dear sir,

Yours obediently,

(Sd.)

WILLIAM H. KEMP.

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

177

XI.

*Memorandum.*

From the International Banking Corporation.

Bombay, 1st December, 1917.

To the Police Court, Esplanade, Bombay:

We hereby certify that we received for collection on 27th February 1917, from Mohomedally Zainal Aliraza, a bill drawn by C. G. Collins on G. Curtice and Co. 8 Charges Street, London W. for £1700 (Pounds one thousand seven hundred).

The bill is at present held by our London office unpaid.

INTERNATIONAL BANKING CORPORATION,

(Sd.) ———, *Manager.*

True copy.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

E. J. M.

178

Chief Presidency Magistrate's Court.

Bombay, 1st December, 1917.

I, A. H. S. Aston, Esquire, Chief Presidency Magistrate of Bombay, do hereby certify that a prima facie case of an offense of obtaining property by false pretences at Bombay under section 420 of the Indian Penal Code in respect of a pearl button valued at £1700 has been established against the accused Lieut. Col. Charles Glen Collins and that the alleged act constitutes under the law in force in the Bombay Presidency an offence punishable under the Indian Penal Code with imprisonment of either description (rigorous or simple) for seven years and a fine.

Given under my hand and the seal of the Court this 1st day of December, 1917.

[SEAL.]

(Signed)

A. H. S. ASTON,

*Chief Presidency Magistrate, Bombay.*

E. J. M.

179 United States District Court, Eastern District of Louisiana.

No. 15936.

In the Matter of Extradition Proceedings of CHARLES GLEN COLLINS.

Proceedings Had in the Above Entitled and Numbered Matter on the 21st Day of November, 1918, Before the Honorable Rufus E. Foster, Judge United States District Court, Eastern District of Louisiana.

Appearances.

Judge R. H. Marr, representing petitioner.

J. Zack Spearing, Esq., representing defendant.

180

Offer.

Judge Marr: I offer all the documents connected with the affidavit of T. F. Carlisle, all certified copies of the proceedings held in the Court of the Chief Presidency Magistrate, Bombay, with all the certificates thereto attached. I offer in evidence also the testimony taken before Sir John Dickinson, Knight, in London, and the evidence in Glasgow before Alexander Stuart Duff Thomson.

Judge Marr: Then of course I presume the admission that Mr. Collins is the person described in the affidavit.

Mr. Spearing: Yes.

Objection.

Mr. Spearing: I object to the reception of any of the documents, papers, certificates, or copies that have been offered in evidence, on the ground that they do not relate to, and do not show, a charge against the accused for an offence covered by any treaty between the Government of Great Britain and the United States, and they do not charge any offence which, under any treaty between those two governments, is extraditable, and the papers offered in evidence relate to an offence entirely separate, different and distinct from the offence charged in the affidavit filed in this Court.

The Court: I overrule the objection.

Mr. Spearing: I reserve a bill to the ruling of the Court.

181

Objection.

Mr. Spearing: Reserving the benefit of the objection made to the admission of any of the papers and documents in evidence, I make the following objection: First, that the certificates are not in proper form and that the certificate of A. H. S. Aston, Chief Presidency Magistrate, of Bombay, dated December 1st, 1917, refers to typed matter contained in the foregoing 17 pages of paper, whereas, in

truth and in fact, there are not 17 pages, and he does not refer to the papers which follow the certificate.

The Court: I overrule the objection.

Mr. Spearing: I reserve a bill to the ruling of the Court.

#### Objection.

Mr. Spearing: I object to any of the other papers and documents, because the papers from India do not contain any warrant of arrest, and on the further ground that such papers as are further offered relate to the charge of cheating, whereas the affidavit filed in this court by the Honorable T. E. Carlisle, British Consul General at New Orleans, refers to the charge of obtaining valuable property or goods under false pretences; that the charge of cheating is not extraditable under the treaty between the Government of Great Britain and the Government of the United States.

The Court: I overrule the objection.

Mr. Spearing: I reserve a bill to the ruling of the Court.

182

#### Objection.

Mr. Spearing: I object to the affidavits taken in Glasgow and London, being the evidence of John Richard Campbell Howie, Edward Curtice and others, James Paterson, Hugh Allan and A. S. D. Thomson, on the ground that they were taken after the charges were made in Bombay, India, and form no part of the proceedings in Bombay, India, and that the papers were not part of the papers or documents upon which the charge against this accused was made, or on which the warrant of arrest, if any was issued, was based.

The Court: I sustain the objection.

#### Objection.

Mr. Spearing: I further object to the affidavit of A. H. S. Aston, dated December 1st, 1917, he being the Presidency Magistrate of Bombay, in which he states his conclusion, on the ground that it is no part of the proceedings and is not binding upon this Court.

The Court: I sustain the objection.

Mr. Spearing: I now offer Charles Glen Collins as a witness.

The Court: There is a little difference in these affidavits, in both of these affidavits there is some mention that Collins made some arrangement of credit. I will let him explain that, if he wants to.

183

CHARLES GLEN COLLINS, being duly sworn, testified as follows:

Direct examination.

By Mr. Spearing:

Q. Colonel Collins, we are now on the charges of Ali Raza, of Bombay, India. Mr. Ali Raza, in his examination in chief before

Mr. Aston, Chief Presidency Magistrate, in Bombay, states that he knew a Mr. Dady, and that he, Ali Raza, went out to see you at Malabar Hill.

A. That is correct.

Q. Do you remember the circumstances?

A. Yes sir; quite well.

Q. Among other things, he says he saw you and Mrs. Olga Olsan, and he took pearls with him.

A. We bought a pearl necklace and a single pearl from him, and paid him £3000 in cash and gave him notes for the balance.

Q. He refers to a conversation with reference to giving credit.

A. Yes sir.

Q. What was that conversation?

A. Well, I told him, as I told all those parties whom I saw, that I had been commanding the Howe Battalion and that I was on sick leave——

Q. I understand the Judge does not want you to testify to anything of that kind.

The Court: I don't object.

A. I mean it was on those points that he gave me credit.

Q. You say you told him you had been a colonel in the 184 Howe Battalion?

A. Yes sir, and that I was on sick leave, and that I was a brother of the chairman of a firm of publishers and stationers in Scotland and London.

Q. What was the name of that firm?

A. William Collins and Sons, Limited.

Q. Is that a firm or a corporation?

A. A corporation.

Q. What request, if any, did you make for credit?

A. The only credit I wanted was, I said I couldn't pay more than half in cash and half in notes; was that agreeable to him?

Q. Did that refer to the transaction of the pearl necklace as well as to the pearl that is referred to in these affidavits?

A. It took place simultaneously, took place at the same table, in the same room.

Q. Who purchased the pearl necklace?

A. You see, I was acting——

The Court: There is nothing about a pearl necklace in this case, is there; it is only a pearl button, is it not?

Mr. Spearing: No sir; but that I think is necessary in explaining the credit portion of it, because, as the witness has just stated, the two transactions were simultaneous and at the same table.

Q. Who purchased the pearl necklace?

A. I arranged all of these purchases for these ladies.

Q. Who was with you at that time?

185 A. All the same party; Mrs. Olsan, Mrs. Muntz and myself, and numerous other people.

Q. Who got the pearl necklace?

A. Mrs. Olsan.

Q. And you got the single pearl?

A. I didn't get it; Mrs. Olsan, she wore it, she had it mounted.

Q. You gave Ali Raza a check or draft on Curtice & Co.?

A. £1,700, and, to the best of my recollection, a check on the London, County and Westminster Bank for £3,150.

Q. Was that on account of the whole transaction?

A. Yes sir; I will say, a note of Mrs. Olsan on her—I can't say if that was or was not made on her father's firm of bankers in London, or on the same London, County & Westminster Bank.

Q. Was there a lump sum agreed upon for all of the jewelry purchased at that time?

A. Absolutely.

Q. What was said with reference to the time of the presentation of the draft or check or note?

A. I explained to them my oil deal. I showed them the film of the oil in Houston, and they agreed to wait until we got our money from the oil deal.

Q. Did you explain that situation to them?

A. I explained it at very great length, on very many occasions.

By the Court:

Q. That was with regard to the notes?

186 A. That was about the note; I couldn't pay them the whole sum in cash.

Q. There was no agreement about the checks you gave?

A. The time I gave those——

Q. You drew a check on a certain designated firm. At that time did you have any money on deposit with that firm?

A. No sir.

Q. Did they agree at that time to pay your checks?

A. They always did so in the past.

Q. Did thy make any agreement with regard to these checks?

A. No sir; I explained I didn't have the money at that time.

By Mr. Spearing:

Q. This explanation you made to them, did that refer only to the note that was given, or did it refer to both the notes and the draft on Curtice & Co.?

A. It had reference to everything.

Q. What was the understanding or agreement between you and this party with reference to the time of the presentation of the draft on Curtice?

A. Well, it is called a check, of course, it is a draft like the others. I told them I received my money by a certain date in April, April 10, and I arranged all these drafts would come at that time in London, about a fortnight after, and I arranged for the money by cable in Shanghai to meet these drafts when they become due.

Q. Did you get the jewelry or the pearls before or after that understanding was made?

187 A. Afterwards.

Cross-examination.

By Judge Marr:

Q. What business is E. Curtis engaged in in Clargis Street, London?

A. Mr. Curtice is the owner of a number of hotels and boarding houses. He is a financial man in this degree. He was associated with me many times in the past in business deals.

Q. He is not in the banking business at all?

A. He never has been.

Q. You didn't notify Curtice in London that you had any intention to draw on his for that amount?

A. I wrote him at once from India; sent him some money.

Q. And before you got any answer from him authorizing you to draw any drafts—

A. I often drew drafts on him for the last twelve years.

Q. You had no authorization from him to draw this special draft of £1,700? had you?

A. There was no need for a special authorization for drawing drafts; I always had done so.

Q. At the time you drew this draft, I understand you had no funds whatever in his hands for collection?

A. When you say that, there is information in the District Attorney's office, among the papers seized, showing how much money he had of mine, acknowledging receipt or dispatch of the money to Curtice.

Q. The evidence which purports to have been taken in London of Edward Curtice says: "I have had no communication whatever with Collins in regard to the drafts for £5,000 or £1,700."

Objection.

Mr. Spearing: I think it is necessary for me to make formal objection to this testimony on the ground of irrelevancy.

The Court: I sustain the objection.

Q. But you do admit that you had no formal authorization from Curtice & Co. for drawing a draft on them?

A. I never have had.

Q. You also admit that you had no money in their hands at the time this draft was drawn?

A. If you send up to the District Attorney's office, you will find among the papers—

By the Court:

Q. Just answer the question.

A. I don't know until I see the dates. In my opinion, I had.

Q. You never paid these drafts?

A. No sir; I have not had much of a chance.

Q. You never remitted anything to Curtice & Co. to take up these special drafts?

A. No sir; I have not had enough money to do that.

Q. Did you tell these people that you were a member of the corporation of William Collins & Sons?

A. No sir.

By Judge Marr:

Q. Your statement is that these people extended credit to  
189 you other than that of those drafts. What did you say to them that would lead them to believe you were capable of paying that amount of money?

A. Because I paid them £3,000 in cash, \$15,000 in cash.

Q. Didn't you draw a draft for £5,000 about that same time on Curtice & Co.?

A. Yes sir; that pearl necklace cost £4,000.

Q. And that also was paid?

A. Yes sir.

Q. So that you drew drafts aggregating £6,700 on a firm that you had absolutely no money with, and from whom you had no written authority to draw drafts on?

A. Well, I always drew drafts on them, they had been met, in the past.

Q. But you had no authority from them to draw any drafts upon them; they didn't tell you "You may draw on us up to the extent of £6,700 from India and we will pay those drafts"?

A. Not until he received my moneys.

Q. Didn't you tell these people that you were a member of the firm of Collins & Co.?

A. Never.

Q. You never told them anything of that sort?

A. Of that sort? I told them what I have told you.

Q. Didn't you tell them you had a large amount of railroad shares and that you were a large holder of shares of stock, and that you were amply able to meet any indebtedness you might owe?

A. I have had a lot of railroad shares.

190 Q. Did you have them at that time?

A. Mortgaged.

Q. Is it not a fact that that very time when you were giving these drafts in India, that proceedings were taken against you in Great Britain as a bankrupt?

A. I don't know it and have never heard of it since. It was after I left England that you make that statement.

Q. You are, at this present moment, are you not, at this present moment, an undischarged bankrupt, by proceedings instituted against you in 1902?

A. To the best of my knowledge, no.

Q. You don't mean to testify you are a discharged bankrupt, do you?

A. I have never been put in bankruptcy in my life.

Q. You never were, prior to this suit?

A. I never have been in bankruptcy, except in the United States. There was a petition against me in 1902.

Q. How many times have you been proceeded against with regard to a discharge in bankruptcy?

A. To the best of my knowledge, only once, in 1902.

Q. You had no previous acquaintance with these people before you had these jewelry transactions, this man Ali Raza?

A. Never.

Q. You never knew him before at all?

A. No sir.

Q. And you did get, on the presentation of this draft for  
191 £1,700, this pearl button——

A. And the £3,000 in cash.

Q. You didn't pay them £3,000 in cash for the pearl button?

A. No; but it was given for the two transactions.

Q. You did buy from these people a pearl button of the value of £1,700?

A. Yes sir.

Q. And you gave in payment for that pearl button a draft drawn on these people in London for £1,700. Was not the amount of the draft equal to the purchase price of the button?

A. It was.

By the Court:

Q. I understood you to say that you told him you were an officer in the English army on sick leave?

A. Yes sir.

Q. Was that true?

A. Yes sir.

Q. Are you an officer in the English army now?

A. No sir.

Q. When was your connection with it closed?

A. January 1916, from the Admiralty, when I was discharged from the Royal Marines.

Q. What was your commission?

A. Lieutenant Colonel of the Royal Marines.

Q. When were you discharged?

A. I never was discharged; I resigned my appointment in the Royal Marines and went on to my regiment in London, in January 1916, on account of ill health.

192 Q. Was it before or after you went to India?

A. Before.

Q. So, at the time you made these purchases, you had already resigned?

A. Yes sir; but I was being employed. You see, I was used by the Department as a — and when the regiment was transferred, my health broke down, I had to resign my appointment so as to get back to my real profession in the War Office, in the army, where I had been employed before at the beginning of the war.



By Judge Marr:

Q. I show you what purports to be a passport issued at the office in London on the 8th day of January 1916.

A. Quite correct.

Q. I notice that in that passport you give your age as 36 and profession as that of banker?

A. Yes sir.

Q. You didn't give your profession as being in the army, did you?

A. I was not allowed by the Admiralty. Any officer of the army or navy crossing the North seas had to go disguised because in case of submarines capturing these neutral vessels.

Q. Where did you conduct your banking business?

A. In New York chiefly.

By the Court:

Q. You resigned your commission?

A. My appointment; you can't resign your commission in war time.

193 Q. You had resigned your appointment?

A. Under the admiralty.

Q. What was your official standing in the British Admiralty or army?

A. Commander of the Howe Battalion.

Q. Not after you had resigned your appointment?

A. No sir.

Q. What was your understanding after you had resigned your appointment?

A. I was simply sent back to my lower rank, as captain in the army, where I had been when I came to the War Office.

Q. Do you still hold your position as captain in the army?

A. No sir, I have no commission, because, at the end of six months, you are automatically dropped. I lost the appointment as colonel of the army in Canada last year. There I held the rank of colonel, general staff officer at Alcantara.

By Judge Marr:

Q. When you came to New Orleans in November 1917, you were then out of the Army?

A. Yes sir; I had a sick leave certificate from Quebec.

Q. I say, when you came to New Orleans in November 1917, had you not ceased being an officer in the British Army?

A. No sir; the letters will disprove that, the letters Mr. Spearing has from the general officer commanding in Canada, from the Adjutant General of the Canadian forces, dated October 17, that will disprove that.

194 Q. In October 1917?

A. Yes sir; that is three weeks before I came here.

Q. Three weeks before you came here, you were no longer in the army?

A. No; I went before the medical board in Quebec, I think it was the 1st of October, that is the date of the certificate, and they wouldn't let me go back in active service for six months.

Q. You came to New Orleans in November 1917?

A. Yes sir.

Q. Hadn't your connection with the British Army ceased when you came to New Orleans?

A. No; the doctors would pass me as *git* now.

Q. I want an answer, yes or no; isn't it a fact when you came to New Orleans in 1917, your connection with the British army had come to an end?

A. No sir.

Q. What was your rank in the British Army at that time?

A. Lieutenant Colonel.

Q. So, when you presented yourself at the British Consulate here in November 1917, you were still a colonel in the British Army?

A. Yes sir; on sick leave.

Q. On six months' sick leave?

A. Yes sir; from the medical board at Quebec.

By Mr. Spearing:

Q. Will you please explain in detail how it was that when you got that passport about which you were asked, you did not give your rank either in the army or in the navy?

195 A. I applied for permission from the admiralty to go to New York to recover my health, after I was discharged as semi-fit by the medical officers of the Royal Navy Hospital at Plymouth. They sent for me and told me I could leave for three months, but I must not, in crossing the North Sea, take any papers of any kind at all with me, in case of capture by German submarines. That rule applied to all naval officers crossing the North Sea at that time. For that reason, they gave me this passport, and they made it out to me as a banker, because I told them that was my profession before the war.

Q. You did go to New York?

A. Yes sir; and then I was used immediately afterwards in carrying dispatches for the British Embassy from Petrograd to Vladivostok. That was what took me out to the Far East.

Q. That was after you got your passport?

A. Yes sir.

Q. Did you actually carry those dispatches?

A. Yes sir.

Q. You have a receipt from the British Embassy at Tokio for them?

A. Yes sir.

Q. That was one of the motives you had in going to the Far East?

A. Yes sir.

196 Q. Will you explain just your connection, either by blood or in a business way, with the corporation of William Collins & Sons, Limited. First, is that a family business?

A. That is a family business. My great-grandfather founded it and my brother is the present chairman.

Q. Did your father have any connection with it?

A. He was a director and shareholder.

Q. Did he ever have any stock in it?

A. Yes sir, and he left it in trust for his children, the same as my grandfather, Sir William Collins, he left it to my brothers and my sister and myself, a great many shares, all in trust.

Q. What has become of your interest in that concern?

A. The banks in Glasgow have loaned *sum* large sums against my shares. The firm has been obliged to reduce the dividends during the war, and at the present time I am receiving no income from my shares held by the trustees.

Q. Did you ever receive any dividends from William Collins and Sons?

A. Of course.

Q. Up to what time?

A. The trustees have been paying me money continuously from 1904 to 1914, when I went back to the War Office and rejoined in August.

Q. So far as your military record is concerned, I understand that before the present war broke out, you were connected with the army?

A. An officer for eight years in the Cameron Highlanders. I resigned my place in 1904, with the rank of captain.

197 Q. When the present war broke out, what part of the service did you go into?

A. I reported in the War Office, and was employed in the War Office for about thirty days with the rank of captain. I was then transferred to the Admiralty with the rank of commander, as second in command of one of the regiments of the Royal Naval Division, and later I was promoted, I was transferred from the Royal Navy to the Howe Battalion, with the rank of Lieutenant Colonel.

Q. And you served in that capacity?

A. Until June 1916, or over a year and a half, I was in the Howe Battalion.

Q. And you have not been in actual service since June 1916?

A. Not in the field, but in Canada; I was carrying these dispatches.

Q. When you came to this country, you went to Canada?

A. I reported myself to the military attaches, and shortly after I was instructed to go to Quebec and to report for duty there as instructor, as military instructor.

Q. As a matter of fact, did you report for duty?

A. Yes sir.

Q. In what capacity and at what place?

A. Lieutenant Colonel.

Q. And at what place?

A. At Alcarte Camp, Alcarte, Quebec.

Q. How long did you serve there?

A. Three months.

198 Mr. Spearing: Your Honor, I would like to offer the testimony of Mr. William H. Smith, as I did in the other case.

The Court: I will hold that the testimony of Mr. Smith, which I understand can only corroborate the Colonel as to his oil transactions in the United States, from which he expected to derive funds to pay for these jewels that he purchased, is irrelevant and inadmissible, just the same as the Colonel's testimony on that line, I have permitted the defendant to testify in order that he might explain, if he so desired, the ambiguous statement in the affidavits on which the requisition issued, that there had been a discussion about credit when the jewels were bought.

Mr. Spearing: I now offer Colonel Collins as a witness to prove the facts which it was stated could be proved by him in the former proceedings consolidated in 15,927, and also offer Mr. William H. Smith as a witness to substantiate Colonel Collins, as stated in that statement of facts.

Offer.

Mr. Spearing: I also offer all of the documents and papers which were offered in the said proceedings 15,927, concerning the other affidavits against this same accused.

The Court: I exclude the testimony.

Mr. Spearing: To all of which I except and make this note in lieu of a formal bill of exceptions.

199 Mr. Spearing: I offer the transcript of the record in the proceedings 15,927, to form part of this purpose for such purpose as it may serve.

The Court: I will consolidate this case with the other two.

The Court: It is quite evident that the defendant purchased the pearl stud, or was instrumental in its purchase, for £1700, and that he gave in payment of it, a check or draft on a firm in London with whom he had no funds deposited, and against whom he was not specially authorized to draw the check. This makes out a prima facie case of obtaining goods by false pretences, whether he subsequently intended to pay for the goods in some other way or not, and the matter is one that should come before the Indian courts for trial on the merits. Therefore I will hold him for requisition from the Secretary of State.

200

*Motion of Charles Glen Collins to Dismiss.*

Filed Nov. 21, 1918.

U. S. District Court, Eastern District of Louisiana, New Orleans  
Division.

No. 15936.

In re Extradition Proceedings of CHARLES GLEN COLLINS.

Now comes Charles G. Collins whose extradition is sought in these proceedings and moves the Court to dismiss the affidavit herein and to discharge him from custody without day because this Court is without jurisdiction to try Appearer or to hear and pass upon the questions raised by the affidavits or the rights of this Appearer on the grounds and for the reasons following, to wit:

Because the affidavit of Thomas F. Carlisle, British Consul General is not such as is required by law, does not comply with the law and did not justify the issuance of the warrant of arrest and does not justify the holding of the Appearer thereunder for the reason that

The said affidavit does not charge this Appearer with having committed any crime and particularly does not charge him with having committed a crime for which, under the treaties between this Country and Great Britain, this Appearer may be extradited.

Wherefore, this Appearer objects to and protests against this Honorable Court hearing any evidence, either oral or documentary, upon the affidavit hereinabove referred to and prays the Court to dismiss the said affidavit and to discharge this Appearer without day.

(Signed)

CHARLES G. COLLINS.

(Signed) J. ZACH SPEARING, *Atty.**Affidavit.*STATE OF LOUISIANA,  
*Parish of Orleans:*

Before me the undersigned authority personally came and appeared Mr. Charles G. Collins who being duly sworn deposes and says: That all of the allegations in the above and foregoing

201 petition are true and correct.

(Signed)

CHARLES G. COLLINS.

Sworn to and subscribed before me this 21st day of November 1918 at the City of New Orleans, State of Louisiana.

[SEAL.]

(Signed)

J. ZACH SPEARING,

*Not. Pub.*

*Order of Commitment.*

Filed Oct. 30, 1918.

United States District Court, Eastern District of Louisiana.

Nos. 15927 &amp; 15928 (Consolidated).

In the Matter of Extradition Proceedings versus CHARLES GLEN COLLINS.

These causes, as consolidated, came on this day to be further heard upon requisition of Gerard M. Loly, British Vice Consul at the City of New Orleans, and of Tom F. Carlisle, British Consul General at the City of New Orleans, that Charles Glen Collins be committed for the purpose of being delivered up as a fugitive from justice, pursuant to the provisions of the treaty made between the United States and Great Britain, August 9, 1842, and subsequent additional conventions—counsel for the respective parties being present, and the defendant, Charles Glen Collins, being present and represented by counsel;

Whereupon, after hearing exhibits and evidence, and arguments of counsel, and on due consideration thereof, I find and adjudge that the evidence produced against the said Charles Glen Collins is sufficient in law to justify his commitment on the charge of having obtained property by false pretenses;

It is therefore ordered, adjudged and decreed that the said Charles Glen Collins be committed to the House of Detention for the Parish of Orleans, State of Louisiana, to be held for extradition to British India for trial on the charges pending against him in the Chief Presidency Magistrate's Court at Bombay, India, and to abide the order of the President of the United States in the Premises, until the further orders of the Court.

October 30th, 1918.

(Signed)

RUFUS E. FOSTER,

*Judge of the United States District Court  
for the Eastern District of Louisiana.**Commitment.*

Issued October 30, 1918.

UNITED STATES OF AMERICA,

*Eastern District of Louisiana, ss:*

To the Marshal of the Eastern District of Louisiana, or Either of His Deputies, and the Keeper of Either of the Gaols in Said District, Greeting:

These are, in the name of the President of the United States of America, to command you, the said Marshal or Deputies, and each of

you, forthwith to convey and deliver into the custody of the Keeper of the House of Detention for the Parish of Orleans, State of Louisiana, the body of Charles Glen Collins, directed by order rendered this day in these proceedings, to be held for extradition to British India for trial on charges pending against him before the Chief Presidency Magistrate Court at Bombay, India, as set out in the complaining affidavits herein;

And you the said Keeper, in the name of the President of the United States of America, aforesaid, are hereby commanded to receive the said Charles Glen Collins into your custody — said House of Detention and him there safely to keep or be otherwise discharged in due course of law, until the further orders of the court.

Hereof fail not at your peril.

Witness, The Honorable Rufus E. Foster, Judge of the United States District Court, this 30th day of October in the year of our Lord one thousand nine hundred and eighteen.

[SEAL.]

(Signed)

RUFUS E. FOSTER,

*Judge of the United States District Court  
for the Eastern District of Louisiana.*

*Marshal's Return on Commitment.*

Filed November 19, 1918.

Received by U. S. Marshal, New Orleans, La., October 31st, 1913, and on the same day month and year, I delivered the body of the within named Chas. Glen Collins into the custody of the keeper of the house of Detention, New Orleans, La.

FRANK M. MILLER,

*U. S. Marshal,*

(Signed)

By SAM W. TAYLOR, *Deputy.*

[Endorsed:] U. S. District Court. Nos. 15,927 & 15,928 (Consolidated). In the Matter of — Charles Glen Collins. Commitment.

204

*Order of Commitment.*

Filed Nov. 21, 1918.

United States District Court, Eastern District of Louisiana.

No. 15936.

In the Matter of Extradition Proceedings versus CHARLES GLEN COLLINS.

This cause came on this day to be heard upon requisition of Tom F. Carlisle, British Consul General at the City of New Orleans, that Charles Glen Collins be committed for the purpose of being delivered



up as a fugitive from justice, pursuant to the provisions of the treaty made between the United States and Great Britain, August 9, 1842, and subsequent additional conventions;

Present: Robert H. Marr, Esq., attorney for Tom F. Carlisle, British Consul General at the City of New Orleans, Complainant;

" J. Zach Spearing, Esq., attorney for the defendant, Charles Glen Collins, and said defendant, Charles Glen Collins, in person;

Whereupon, after hearing exhibits and evidence, and arguments of counsel, and on due consideration thereof, I find and adjudge that the evidence produced against the said Charles Glen Collins is sufficient in law to justify his commitment on the charge of having obtained property by false pretenses;

It is therefore ordered, adjudged and decreed that the said Charles Glen Collins be committed to the House of Detention for the Parish of Orleans, State of Louisiana, to be held for extradition to British India for trial on the charges pending against him in the Chief Presidency Magistrate's Court at Bombay, India, and to abide the order of the President of the United States in the premises, until the further orders of the Court.

It is further ordered by the Court that this cause be consolidated with causes Nos. 15,927 and 15,928 of the docket of 205 this Court, entitled "In the matter of extradition proceedings versus Charles Glen Collins."

(Signed)

RUFUS E. FOSTER,  
*Judge of the United States District Court  
for the Eastern District of Louisiana.*

New Orleans, La., November 21st, 1918.

206

*Commitment.*

Issued November 21st., 1918.

UNITED STATES OF AMERICA,

*Eastern District of Louisiana, ss:*

To the Marshal of the Eastern District of Louisiana, or Either of His Deputies, and the Keeper of Either of the Gaols in Said District, Greeting:

These are, in the name of the President of the United States of America, to command you, the said Marshal or Deputies, and each of you, forthwith to convey and deliver into the custody of the Keeper of the House of Detention for the Parish of Orleans, State of Louisiana, the body of Charles Glen Collins, directed by order rendered this day in these proceedings, to be held for extradition to British India for trial on charges pending against him before the Chief Presidency Magistrate Court at Bombay, India, as set out in the complaining affidavits herein;

And you the said Keeper, in the name of the President of the United States of America, aforesaid, are hereby commanded to receive the said Charles Glen Collins into your custody in said House of Detention and him there safely to keep or be otherwise discharged in due course of law, until the further orders of the court.

Hereof fail not at your peril.

Witness, The Honorable Rufus E. Foster, Judge of the United States District Court, this 21st day of November in the year of our Lord one thousand nine hundred and eighteen.

[SEAL.] (Signed) RUFUS E. FOSTER,  
Judge of the United States District Court  
for the Eastern District of Louisiana.

*Marshal's Return on Commitment.*

Filed November 27, 1918.

Received by U. S. Marshal, New Orleans, La., November 22nd, 1918. Having previously arrested the within named Charles Glen Collins, and having him in custody I take notice of this warrant and am holding him in answer to same.

FRANK M. MILLER,  
U. S. Marshal,  
(Signed) By SAM W. TAYLOR, Deputy.

[Endorsed:] U. S. District Court. No. 15,936. In the Matter of Extradition Proceedings vs. Charles Glen Collins. Commitment.

207

*Certificate of Judge.*

Issued November 27, 1918.

THE UNITED STATES OF AMERICA,  
*Eastern District of Louisiana:*

United States District Court, Eastern District of Louisiana.

Nos. 15927, 15928, and 15936 (Consolidated).

In the Matter of — CHARLES GLEN COLLINS.

I, Rufus E. Foster, Judge of the District Court of the United States for the Eastern District of Louisiana, being duly authorized to issue warrants for the extradition of fugitives from justice of foreign governments, do hereby certify that, pursuant to complaints of Gerard M. Loly, British Vice Consul at the City of New Orleans, and of Tom F. Carlisle, British Consul General at the City of New Orleans, duly made oath, charging Charles Glen Collins with having committed the crime of obtaining property by false pretenses from Pohoomul Bros., Ga-

reshi, Lall & Sons and Mahomed Alli Zaimal Ali Raza, within the jurisdiction and government of British India, and with being a fugitive from justice of said country, I issued my warrants for the arrest of the said Charles Glen Collins, and by virtue thereof he was by the Marshal of the United States for said District arrested and brought before me for examination and hearing upon said charges, and that said examinations and hearings were held on the 30th day of October, A. D. 1918, and on the 21st day of November, A. D. 1918, Robert H. Marr, Esq., appearing as counsel for the British Government, and J. Zach Spearing, Esq., appearing as counsel for the defendant, and that I deem the evidence before me sufficient to sustain the charges under the law, and the provisions of the treaty of extradition between the government of the United States and that of the British Government, and that I have accordingly, by my warrants under my hand dated October 30th, 1918, and November 21st, 1918, committed him

208 to the House of Detention for the Parish of Orleans, State of Louisiana, to await the order of the President of the United States in the premises.

I further certify that the annexed depositions of Udharn Partabrai, Lokumull Sahijran, John Dunstan Sherstan Baker and Arthur Fuller, together with certificates of James A. Smith, Consul General for the United States of America, at Calcutta, India, A. H. Grant, Secretary to the Government of India in the Foreign and Political Departments, and Chunilal H. Setalvad, Acting Chief Presidency Magistrate, Bombay, India, and depositions of Brijmohanlal Lalla Ramkissandas, Dattatraya Ramchandra, Arthur Fuller, Mohomedali Zaimal Ali Raza, Kaikhushru Dadabhoy Rustomji Dady and John Mathew Ferreira, together with certificates of James A. Smith, Consul General for the United States of America, at Calcutta, India, A. H. Grant, Secretary to the Government of India in the Foreign and Political Departments, and A. H. S. Aston, Chief Presidency Magistrate, Bombay, India, was all of the testimony considered by me on said application;

I further annex the depositions of John Richard Campbell Howie and Edward Curtice, together with certificates of Sir John Dickinson, Knight, Chief Magistrate of the Police Courts of Metropolis (London), J. W. Holderness, Under Secretary of State for India, and Sheldon Leavitt Crosby, Secretary of Embassy of United States, and depositions of James Paterson and Hugh Allan, together with certificates of J. W. Holderness, Under Secretary of the State of India, Sheldon Leavitt Crosby, Secretary to Embassy of United States, John Lamb, Assistant Under Secretary for Scotland, and A. Hirtzel, Assistant Under Secretary of State for India, which on objections of counsel for said Charles Glen Collins, I excluded.

I further annex a statement of counsel for Charles Glen Collins of certain facts he proposed to show by said Collins in his own behalf and by Wm. H. Smith, in behalf of said Collins (see accompanying record of proceedings in Court on October 30th, 1918, and November 21st, 1918), which evidence I considered to be matters of defence before the India Court and not relevant or admissible before me.

Witness my hand this 27 day of November, A. D. 1918.

[SEAL.] (Signed) RUFUS E. FOSTER,  
*Judge of the District Court of the United States  
 for the Eastern District of Louisiana.*

210

*Judgment.*

Filed Feb. 21, 1919.

In the United States District Court for the Eastern District of  
 Louisiana.

In the Matter of the Application of CHARLES GLEN COLLINS for Writs  
 of Habeas Corpus and Certiorari.

As to the commitment of relator to await the action of the President of the United States on the application for the extradition of relator to answer the charge of obtaining property by false pretenses from Mahomed Alli Zaimel Ali Raza, relator's application for habeas corpus is denied.

As to the commitment based on the charge of obtaining property by false pretenses from Pohoomull Brothers and on the charge of obtaining property by false pretenses from Ganeshi Lall & Sons, the writs of habeas corpus are granted, but relator is remanded to the House of Detention to await further proceedings in said last two named affidavits.

And it is further ordered that, as to the said two affidavits last mentioned, this cause be and is hereby remanded to the Honorable Rufus E. Foster, Judge, to the end that relator be given the opportunity of introducing such evidence as he might offer at a preliminary examination under the law of Louisiana.

Given this 21st day of February, 1919.

(Signed)

W. I. GRUBB,  
*U. S. District Judge.*

211

EXHIBIT.

Filed March 6, 1919.

Before Saml. M. Hitchcock, U. S. Commissioner, &c.

In the Matter of the Application for the Extradition of CHARLES G. COLLINS under the Treaties Between the United States and Great Britain.

UNITED STATES OF AMERICA,  
*Southern District of New York, ss:*

C. Olive Bayley, His Britannic Majesty's Consul General at the Port of New York, being duly sworn deposes and says upon information and belief:

First. That heretofore and on or about the 2nd day of February in the year 1917 at Bombay, British India and within the jurisdiction of His Britannic Majesty, one Charles G. Collins did commit the crime of obtaining property by false pretenses, to wit: did on or about the 2nd day of February in the year 1917 at Bombay, aforesaid, obtain by false pretenses a pearl necklace of the value of Seventy-five Thousand Rupees, of the value in the moneys of the United States of about \$24,330, from the firm of Pohwomul Brothers of Bombay, aforesaid, by falsely and fraudulently representing himself as a Lieutenant Colonel attached to the H. O. W. Royal Marines on furlough, and delivered to the said firm of Pohwomul Brothers for the said pearl necklace a draft for Seventy-five Thousand Rupees, which he  
212 falsely represented would be paid upon presentation, which draft upon presentation was dishonored and unpaid.

Second. That the said Charles G. Collins is a fugitive from the justice of British India and is now within the territory of the United States.

Third. That the crime with which the said Charles G. Collins is herein charged is an offence within the treaties between the United States and Great Britain.

Fourth. That deponent's information and belief are based upon two messages received by cable, one from His Britannic Majesty's Secretary of State for Foreign Affairs, and one from the Governor of Bombay, which messages also state that a Warrant has been issued in Bombay for the apprehension of the said Charles G. Collins for the crime herein alleged against him.

(Signed)

C. OLIVE BAYLEY.

Subscribed and sworn to before me this 5th day of November 1917.

(Signed)

SAM M. HITCHCOCK,

*U. S. Commissioner, Southern District of New York.*

SAML. M. HITCHCOCK,

*U. S. Commissioner, and also a Commissioner Especially Appointed to Execute the Provisions of Title LXVI of the Revised Statutes of the United States for Giving Effect to Certain Treaty Stipulations Between This and Foreign Governments for the Apprehension and Delivery up to Certain Offenders.*

I hereby certify the foregoing to be a true copy of the Original Complaint in the above entitled cause filed in my office this 5th day of November 1917.

[SEAL.]

(Signed)

SAM M. HITCHCOCK,

*United States Commissioner,*

*Southern District of New York.*

A true copy.

[SEAL.]

(Signed)

A. H. BROWNE,

*U. S. Commissioner.*

213 The President of the United States of America to Any Marshal of the United States *to* the Deputies of Any Such Marshal or Either of Them:

Whereas, a complaint has been made on oath under the treaties between the United States and Great Britain, signed at Washington on the ninth day of August One thousand eight hundred and forty-two and ratifications were exchanged at London, on the thirteenth day of October in the same year, and of the conventions supplementary to the said Treaty between the same High Contracting Parties, concluded and signed at Washington July 12th, 1889 and December 13th, 1900 before me, Saml. M. Hitchcock, one of the Commissioners appointed by the District Court of the United States for the Southern District of New York and also a Commissioner especially appointed to execute the provisions of Title LXVI of the Revised Statutes of the United States for giving effect to certain treaty stipulations between this and foreign Governments for the apprehension and delivery up of certain offenders: that heretofore and on or about the end *day* of February in the year 1917 at Bombay, British India and within the jurisdiction of his Britannic Majesty, one Charles G. Collins did commit the crime of obtaining property by false pretenses, to wit: did on or about the 2nd day of February in the — 1917 at Bombay, aforesaid, obtain by false pretenses a pearl necklace of the value of Seventy-five Thousand Rupees, of the value in the moneys of the United States of about \$24,330, from the firm of Polhwomull Brothers of Bombay, aforesaid, by falsely and

214 fraudulently representing himself as a Lieutenant Colonel attached to the H. O. W. Royal Marines on furlough, and delivered to the said firm of Polhwull Brothers for the said pearl necklace a draft for Seventy-five Thousand Rupees, which he falsely represented would be paid upon presentation, which draft upon presentation was dishonored and unpaid; that the said Charles G. Collins is a fugitive from the justice of British India and is now within the territory of the United States of America; that the crime with which the said Charles G. Collins is charged is an offense within the treaties between the United States and Great Britain.

Now therefore, we command you forthwith to take the said Charles G. Collins and bring him before me the said Commissioner at my office Room 314 in the Post Office Building, in the City of New York, or before the nearest Justice, Judge or Commissioner in the District in which the said Charles G. Collins is apprehended, authorized to act in proceedings for the extradition of Fugitives from the justice of foreign governments as provided in Section 5270 of the Revised Statutes of the United States, in order that the evidence of the criminality of the said Charles G. Collins may be heard and considered, and if deemed sufficient to sustain the charge that the same may be certified together with a copy of all the proceedings to the secretary of State that a warrant may issue for his surrender pursuant to the said Treaties.

Witness my hand and official seal this 5th day of November in the year One thousand nine hundred and seventeen.

(Signed)

SAM M. HITCHCOCK,

*U. S. Commissioner, and also a Commissioner Especially Appointed to Execute the Provisions of Title LXVI of the Revised Statutes of the United States for Giving Effect to the Certain Treaty Stipulations Between This and Foreign Government- for the Apprehension and Delivery up of Certain Offenders.*

A true copy.

[SEAL.]

(Signed)

A. H. BROWNE,

*U. S. Commissioner.*

215 Received this warrant on the 12 day of November, 1917, at New Orleans and executed the same by arresting the within named Charles G. Collins by producing him before A. H. Browne, U. S. Commissioner on the 12th day of November, 1917, and have his body now in court, as within I am commanded.

FRANK M. MILLER,

*U. S. Marshal, Eastern District of Louisiana.*

D. A. SANDERS, *Deputy.*

12th day of November, 1917.

216

*Petition & Order for Appeal.*

Filed March 6, 1919.

United States District Court in and for the Eastern District of Louisiana.

No. 15959.

In the Matter of the Application of CHARLES GLEN COLLINS for Writs of Habeas Corpus & Certiorari.

To the Honorable the United States District Court in and for the Eastern District of Louisiana:

The petition of Charles Glen Collins, applicant in the above entitled and numbered proceedings for writs of habeas corpus and certiorari, respectfully represents—

That there is error to his prejudice in the judgment rendered and signed in these proceedings on the 21st day of February 1919 and that petitioner is aggrieved thereby and desires to take an appeal to the Honorable the Supreme Court of the United States with supersedeas; that petitioner has prepared and files herewith his assignment of error and is ready and prepared to furnish a bond with good and solvent surety in such amount as the Court may order conditioned



as the law directs, for the payment of damages and costs of appeal and for any other penalty that may be inflicted or named.

Wherefore, petitioner prays that he be granted an appeal from the judgment rendered and signed in these proceedings on the 21st day of February 1919 returnable to the Honorable the Supreme Court of the United States within the time and in the manner pointed out by law upon petitioner furnishing a bond for such amount as may be

ordered by this Court conditioned as the law directs and for  
217 the payment of damages and *and* costs of appeal or any other  
penalty that may be inflicted or named; and that citation of  
appeal issue.

(Signed)

J. ZACH SPEARING, *Atty.*

*Order.*

The above and foregoing petition of Charles Glen Collins praying that he be allowed to appeal to the Supreme Court of the United States from the judgment and decree rendered and signed in these proceedings on the 21st day of February 1919 and that a certified copy of the transcript of the record upon the said order and decree be transmitted to the Supreme Court of the United States, and the Court being of the opinion that the said Charles Glen Collins is entitled to the appeal as prayed for by him

It is ordered that an appeal to the Supreme Court of the United States from the judgment and decree rendered and signed in these proceedings on the 21st day of February 1919 be and the same is hereby allowed and that a certified transcript of the record of all the proceedings herein and of the returns and pleadings in this case duly authenticated be forthwith transmitted to the Supreme Court of the United States.

It is further ordered, that the bond of appeal conditioned as the law directs and for the payment of damages and costs of appeal, or any other penalty that may be inflicted or named, be and the same is hereby fixed at the sum of Five Hundred & 00/100 (\$500.00) Dollars and that a stay of procedure upon the said judgment and decree appealed from be and the same is hereby granted.

This 3rd day of March, 1919.

(Signed)

W. I. GRUBB,

*United States District Judge.*

*Assignment of Errors.*

Filed March 6, 1919.

United States District Court in and for the Eastern District of Louisiana.

No. 15959.

In the Matter of the Application of CHARLES GLEN COLLINS for Writs of Habeas Corpus &amp; Certiorari.

To the Honorable the United States District Court in and for the Eastern District of Louisiana:

Now comes Charles Glen Collins, petitioner herein by J. Zach. Spearing, his Attorney, and makes and files the following assignment of errors which he alleges occurred upon the hearing herein and in the entry of the judgment or decree in these proceedings from which the said Charles Glen Collins has taken an appeal and upon which assignment of errors he will rely in the prosecution of his appeal herein:

1st. The Court erred in dismissing the writ of habeas corpus as to the charge by Mahomed Alli Zaimal Ali Raza sued out by petitioner herein.

2nd. The Court erred in remanding petitioner to the House of Detention to await further proceedings on the two affidavits of Pohoomull Bros., and of Ganeshi Lall & Sons notwithstanding that according to the judgment appealed from the writ of habeas corpus in those two cases were granted.

3rd. The Court erred in denying the writ of habeas corpus as to one affidavit and granting the writ of habeas corpus in part as to the other affidavits, but the Court should have granted the writ of habeas corpus in its entirety and should have ordered petitioner discharged from custody.

219 4th. The Court erred in holding that petitioner was lawfully held in custody by the Marshal of the United States for the Eastern District of Louisiana to await the action of the Department of State of the United States upon the application to extradite him to the City of Bombay in British India.

5th. The Court erred in holding that petitioner was lawfully held, imprisoned and restrained of his liberty by the Marshal of the United States for the Eastern District of Louisiana and was not entitled to be discharged therefrom.

6th. The Court erred in holding that the informations filed against petitioner before the Esplanade Police Court of Bombay, British India charging petitioner with having committed the offense of cheating under Section 420 of the Indian Penal Code were sufficient under the extradition treaties between the Government of the United States and the Government of Great Britain proclaimed November 10th, 1842 and the supplementary extradition treaty be-

tween the same Countries proclaimed April 22nd, 1901, or any other convention or treaty in force between those two Countries, to arrest, hold or detain petitioner, or to justify his extradition because the offense of cheating is not one of the offenses for which a person, and particularly for which petitioner, could be extradited.

7th. The Court erred in not holding that petitioner was denied due process of law because Hon. Rufus E. Foster, United States District Judge sitting as Extradition Commissioner, refused petitioner the right and opportunity accorded him by the laws of and practice in the State of Louisiana to testify or to make a voluntary declaration in his own behalf and also of the refusal by the said Extradition Commissioner of the right and opportunity accorded him by the said laws of and practice in the State of Louisiana to have other witnesses than himself examined in his own behalf and the like refusal of the right and opportunity to produce and file in evidence documentary evidence in his behalf.

8th. The Court erred in not holding that petitioner was denied by Hon. Rufus E. Foster, the right granted to and possessed by him under the tenth article of the treaty between the United States and the Kingdom of Great Britain proclaimed November 10th 1842 to the protection of the laws of and practice in the State of Louisiana in which petitioner was arrested and according to the laws of and practice in which said State petitioner had and has the right to testify and to make a voluntary declaration in his own behalf and to have witnesses examined and to introduce and to have admitted documentary evidence in his own behalf before a Committing Judge or Magistrate.

9th. The Court erred in not holding that petitioner was denied by the said Hon. Rufus E. Foster the protection granted to and possessed by him under the fifth amendment of the Constitution of the United States of America in that he had been and is being deprived of his liberty without due process of law because under the treaties and conventions between the Kingdom of Great Britain and the United States of America it is expressly provided that no person shall be surrendered by either of the two Nations concerned except upon evidence of criminality "as, according to the laws of the place where the fugitive, or person so charged, shall be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed," and that according to the laws of and practice in the State of Louisiana in which State petitioner was arrested he was entitled to testify in his own behalf and was also entitled to have witnesses examined in his own behalf before the Committing Judge or Magistrate and likewise to have introduced and admitted documentary evidence in his own behalf and that each and all of his rights were denied to your petitioner by the said Hon. Rufus E. Foster.

10. The Court erred in not holding that no legal proof was submitted to or produced before the Hon. Rufus E. Foster of the commission by petitioner of the crime or offense mentioned in the complaints of Thomas F. Carlisle, British Consul General at the City of New Orleans, or of the crime or offense mentioned in the authenti-

cating certificates attached to the documents which were admitted in evidence or mentioned in the information or charges filed before the Esplanade Police Court of Bombay, India, or in the certificates signed by the Chief Presidency Magistrate of said Police Court, or of either of said crimes or offenses, or of any other crime or offense.

11th. The Court erred in not holding that no legal proof was submitted to or produced before Hon. Rufus E. Foster on which reasonable ground for a belief that petitioner had committed the crime or offense mentioned in the complaints of Hon. Thomas F. Carlisle, British Consul General at the City of New Orleans or mentioned in the authenticating certificates attached to the documents offered in evidence or mentioned in the informations or charges filed before the said Esplanade Police Court of Bombay, India, or in the certificates signed by the Chief Presidency Magistrate of said  
 222 Police Court, or of either or any of said crimes or offenses, or any other crime or offense could be based.

12th. The Court erred in not holding that none of the evidence, papers or exhibits which were submitted to the Hon. Rufus E. Foster and by him admitted in evidence over the objection and protest of petitioner were authenticated in accordance with the provisions of the statutes in such cases made and provided so as to entitle them to be received in evidence in the proceedings before the said Hon. Rufus E. Foster.

13th. The Court erred in not holding that the transactions referred to in the depositions and documents which were admitted in evidence over the objection and protest of petitioner are not crimes nor offenses under the laws of the State of Louisiana in which your petitioner was arrested, nor under the laws of British India where it is alleged the said transactions took place, but the Court should have held that the said transactions constituted and were mere commercial transactions in which credit was freely and voluntarily extended.

14th. The Court erred in not holding that even if the said transactions are criminal according to the laws of British India, they do not constitute an offense which, under the treaties or conventions in force between the United States and the Kingdom of Great Britain, are extraditable or for which extradition can be had.

15th. The Court erred in not holding that there is a fatal variance in each of the three sets of documents from Bombay, India, offered, introduced and admitted in evidence over protest by petitioner  
 223 between the charge brought against petitioner in the Esplanade Police Court of Bombay, India which is the offense of cheating under Section 420 of the Penal Code of India and the offense mentioned in the authenticating certificates of the Secretary for the Indian Government and the Consul General of the United States at Calcutta, India which is the offense of obtaining valuable property by false pretenses, which said two offenses are not the same but are different in nature and character in this that the offense of cheating under Section 420 of the Penal Code of India which is not extraditable under the treaties and conventions existing between the United States and the Kingdom of Great Britain is the failure to perform a promise of future payment where the intent not to perform is

proved to have existed at the time of making of the promise and the gist of the offense of obtaining valuable property by false pretenses which is extraditable is, according to the laws enforced in the State of Louisiana, a false representation concerning a past or present fact.

16th. The Court erred in not holding that petitioner was being deprived of his liberty without due process of law and in violation of the provisions of the treaties and conventions between the United States and the Kingdom of Great Britain and particularly in violation of the provisions of the tenth article of the treaty between the said two Countries dated August 9th 1842 and proclaimed November 10th 1842 and in violation of the fifth amendment to the Constitution of the United States of America and in violation of the laws of Louisiana.

224 And petitioner, Charles Glen Collins, prays that the judgment and decree made and rendered herein on the 21st day of February 1919 for the errors aforesaid and for other errors in the record and proceedings herein *made by* reversed and set aside and that petitioner be restored to all things which he lost or has lost by reason of the said judgment and that the United States District Court for the Eastern District of Louisiana be directed to enter in favor of petitioner a judgment and decree maintaining the writ of habeas corpus issued in these proceedings and discharging petitioner from the custody of the Marshal of the United States of the Eastern District of Louisiana and restoring petitioner to his liberty.

(Signed)

J. ZACH SPEARING,  
*Atty. for Charles Glen Collins.*

Presented this 3rd day of March 1919.

(Signed)

W. I. GRUBB,  
*District Judge.*

225

*Bond.*

Filed March 6, 1919.

Know all men by these presents, That we, Charles Glen Collins, as principal, and United States Fidelity & Guaranty Company, as surety, are held and firmly bound unto Frank M. Miller, U. S. Marshal and Harry J. Carter, Clerk of the U. S. District Court, both of the Eastern District of Louisiana, and any and all others concerned in the full and just sum of Five Hundred & 00/100 (\$500.00) dollars to be paid to the said parties or any of them, their certain attorney, executors, administrators or assigns: to which payment, well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this Sixth day of March in the year of our Lord, one thousand nine hundred and Nineteen.

Whereas, lately at a Session of the United States District Court, holding sessions in and for the Eastern District of Louisiana, in a suit depending in said Court, entitled In the matter of the Application of Charles Glen Collins for Writs of Habeas Corpus and Certiorari a

judgment was rendered against the said Charles Glen Collins and the said Charles Glen Collins having obtained an order of appeal and filed a copy thereof in the Clerk's Office of the said Court to reverse the judgment in the aforesaid suit, and a citation directed to the said Frank M. Miller, U. S. Marshal for the Eastern District of Louisiana citing and admonishing him to be and appear before the United States Supreme Court, to be holden at Washington, District of Columbia, within 30 days from the date thereof.

Now, the condition of the above obligation is such, That if the said Charles Glen Collins shall prosecute said appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

(Signed) CHARLES GLEN COLLINS. [SEAL.]  
UNITED STATES FIDELITY & GUAR-  
ANTY CO.,

By T. B. NORTON, [SEAL.]  
*Attorney in Fact.*

Scaled and delivered in presence of—

(Signed) J. ZACH SPEARING,  
“ SYLVESTER TITUS.

Approved by—

(Signed) W. I. GRUBB,  
*District Judge.*

[Endorsed:] U. S. District Court, Eastern District of Louisiana. No. 15,959. In the Matter of the Application of Charles Glen Collins. Bond for Writs of Habeas Corpus, etc.

UNITED STATES OF AMERICA,  
*Eastern District of Louisiana, ss:*

Personally Appeared, Mr. Thomas B. Norton, Agt. U. S. Fidelity & Guaranty Company, who being duly sworn, deposes and says that said company is the surety on the within bond, that said company is authorized to do business in the State of Louisiana and is worth the full sum of five hundred & 00/100 (\$500.00) Dollars, over and above all his debts and liabilities and property exempt from execution.

(Signed) T. B. NORTON,  
*Agt. & Atty. in Fact.*

Subscribed and sworn before me this 6th day of March 1919.

[SEAL.] (Signed) J. ZACH SPEARING,  
*Not. Pub.*

226

*Præcipe.*

Filed March 12, 1919.

In the United States District Court for the Eastern District of  
Louisiana.

No. 15959.

In the Matter of CHARLES GLEN COLLINS Praying for Writs of  
Habeas Corpus & Certiorari.

The Clerk of the United States District Court for the Eastern District of Louisiana is hereby directed in making up the Transcript for the Supreme Court of the United States to omit therefrom the following, to wit:

The affidavits of James Paterson, Hugh Allan, A. S. D. Thomson, John Richard Campbell Howie and Edward Courtice which were taken respectively in Glasgow and London the said affidavits having been excluded by the ruling of the Hon. Rufus E. Foster, Judge of the United States District Court.

New Orleans, La., March 12th, 1919.

(Signed)

J. ZACH SPEARING,  
*Atty. for Charles Glen Collins.*

227 *Petition of Tom F. Carlisle, British Consul General, and  
Order for Appeal.*

Filed March 28th, 1919.

In the United States District Court for the Eastern District of  
Louisiana, at New Orleans.

In the Matter of the Application of CHARLES GLEN COLLINS for  
Writs of Habeas Corpus and Certiorari.

To the Honorable the United States District Court for the Eastern  
District of Louisiana:

The petition of Tom F. Carlisle, British Consul General, respectfully represents:

That there is error to the prejudice of petitioner in the judgment herein rendered and signed on February 21st, 1919, and that your Petitioner as representative of said British Government is aggrieved thereby, and desires to take an appeal to the Honorable, the Supreme Court of the United States with supersedeas.

That Petitioner has prepared and files herewith his assignment of errors, and is ready and prepared to furnish bond with good and solvent surety, if, in the opinion of this Honorable Court, it is



necessary that a bond be given, in such sum as this Court may order, conditioned as the law directs.

Wherefore, Petitioner prays that he be granted an appeal from said judgment, returnable to the Supreme Court of the United States, as by law provided, upon Petitioner furnishing a bond for such amount as this Court may order, conditioned as by law directed, and that citation of appeal herein issue.

(Sig.)

ROBERT H. MARR,  
*For Petitioner.*

*Order.*

It is ordered that an appeal to the Supreme Court of the United States from the judgment and decree herein rendered and signed February 21st, 1919, be, and the same is hereby allowed  
228 Petitioner, returnable to the Honorable, the Supreme Court of the United States April 7th, 1919.

It is further ordered that bond of appeal, conditioned as by law directed, be and the same is hereby fixed at the sum of Five Hundred (\$500.00/100), and that a stay of proceedings upon said judgment and decree appealed from be, and the same is hereby granted.

(Signed)

W. I. GRUBB,

*United States District Judge.*

March 28, 1919.

229 *Assignment of Errors by Tom F. Carlisle, British Consul General.*

Filed March 28, 1919.

In the United States District Court for the Eastern District of Louisiana, at New Orleans.

In the Matter of the Application of CHARLES GLEN COLLINS for Writs of Habeas Corpus and Certiorari.

To the Honorable the United States District Court in and for the Eastern District of Louisiana:

Now comes Tom F. Carlisle, British Consul-General, Petitioner, through his Counsel, Robert H. Marr, who makes and files the following assignment of errors, which he alleges occurred upon the hearing herein and the entry of the judgment in the proceedings from which the said Tom F. Carlisle, British Consul-General, has taken an appeal, and upon which assignment of errors he will rely in the prosecution of this appeal.

That it was error as to the commitment based on the charge of obtaining property by false pretences from Pohoomul Brothers, and on the charge of obtaining property by false pretences from Ganeshi Lall & Sons, to grant writs of habeas corpus and to remand relator to the House of Detention to await further proceedings, and the further order that the cause be remanded to the Honorable Rufus E. Foster to the end that relator be given an opportunity of

introducing such evidence as he might offer at a preliminary examination under the law of Louisiana.

That Petitioner specially assigns as error the granting of the writs of habeas corpus as hereinabove recited.

(Sig.)

ROBERT H. MARR,

*For Petitioner.*

Presented this 28th day of March, 1919.

(Signed)

W. I. GRUBB,

*District Judge.*

230

*Bond of Appeal.*

Filed March 28, 1919.

Know all men by these presents, That we, Tom F. Carlisle, British Consul General at New Orleans, La., as principal, and Robert H. Marr, of New Orleans, La., as surety, are held and firmly bound unto Charles Glen Collins in the full and just sum of Five Hundred dollars to be paid to the said Charles Glen Collins his certain attorney, executors, administrators or assigns: to which payment, well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents. Sealed with our seals and dated this 28th day of March, in the year of our Lord, one thousand nine hundred and nineteen.

Whereas, lately at a Session of the United States District Court, holding sessions in and for the Eastern District of Louisiana, in a suit depending in said Court, between United States on the relation of Charles Glen Collins vs. Frank M. Miller, United States Marshal, praying for a writ of Habeas Corpus in the suit No. 15,959 of the docket of said Court, a Judgment was rendered against the said Tom F. Carlisle British Consul General and the said Tom F. Carlisle, British Consul General having obtained an appeal and filed a copy thereof in the Clerk's Office of the said Court to reverse the Judgment in the aforesaid suit, and a citation directed to the said Charles Glen Collins citing and admonishing him to be and appear before the Supreme Court of the United States, to be holden at Washington, D. C., within 30 days from the date thereof.

Now, the condition of the above obligation is such, That if the said Tom F. Carlisle, British Consul General shall prosecute his appeal to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

(Signed)

TOM F. CARLISLE, [SEAL.]

*British Consul General.*

By His Atty., ROBERT H. MARR. [SEAL.]

ROBERT H. MARR. [SEAL.]

Scaled and delivered in presence of—

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\_\_\_\_\_  
\_\_\_\_\_

Approved by—

(Signed)

W. I. GRUBB.

*U. S. District Judge.*

[Endorsed:] U. S. District Court, Eastern District of Louisiana. No. 15,959. United States ex rel. Charles Glen Collins. Bond. Frank M. Miller, U. S. Marshal.

231 UNITED STATES OF AMERICA:

District Court of the United States, Eastern District of Louisiana,  
New Orleans Division.

Clerk's Office.

I, Henry J. Carter, Clerk of the District Court of the United States for the Eastern District of Louisiana, do hereby certify that the foregoing 231 pages contain and form a full, complete, true and perfect transcript of the record, assignment of errors and proceedings in the case of "United States Ex Rel. Charles Glen Collins, versus Frank M. Miller, United States Marshal," No. 15,959, of the Docket of said Court (made in accordance with the precept for transcript copied at page 226 of said transcript) in the matter of the said appeal taken by the Relator Charles Glen Collins, and also a true and perfect copy of the Petition and Order for Appeal, Assignment of Errors and Bond of Appeal taken by Tom F. Carlisle, British Consul General.

Witness my hand, and the seal of said Court, at the City of New Orleans, Louisiana, this 29th day of March, A. D., 1919.

[Seal District Court of the United States, Eastern District of Louisiana, New Orleans Division.]

H. J. CARTER, *Clerk*.

232 Issued for J. Zach. Spearing, Atty. for Relator.

THE UNITED STATES OF AMERICA:

District Court of the United States, Eastern District of Louisiana.

The President of the United States to Frank M. Miller, United States Marshal for the Eastern District of Louisiana, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at the City of Washington, D. C., within 30 days from date hereof, pursuant to a Petition and Order of appeal filed in the Clerk's Office of the District Court of the United States for the Eastern District of Louisiana, wherein United States ex rel. Charles Glen Collins, is Appellant, and Frank M. Miller, United States Marshal, is Appellee, in the cause wherein, United States, ex rel. Charles Glen Collins, is Relator, and Frank M. Miller, United States Marshal, is Defendant, No. 15,959 of the docket of the District Court of the United States for the Eastern District of Louisiana, New Orleans Division, to show cause,

if any there be, why the judgment rendered against the said Relator, Charles Glen Collins, as in said Petition and Order of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable William T. Grubb, Judge of the United States District Court, at New Orleans, La., this 8th day of March in the year of our Lord one thousand nine hundred and nineteen.

(Signed)

WM. T. GRUBB,

*Judge District Judge.*

Clerk's Office.

A true copy.

H. J. CARTER, *Clerk.*

New Orleans, La., March 10, 1919.

Received by U. S. Marshal, New Orleans, La., March 10th, 1919, and on the same day month and year I served the original of which this is a certified copy on Frank M. Miller, U. S. Marshal, by handing same to him in person at New Orleans, La.

FRANK M. MILLER,

*U. S. Marshal,*

By SAM W. TAYLOR, *Deputy.*

[Endorsed:] Return. United States District Court, Eastern District of Louisiana. N. No. 15,959. United States ex rel. Charles Glen Collins. Frank M. Miller, United States Marshal. Citation of Appeal. Marshal's Return. No. —. U. S. District Court, Eastern District of Louisiana, New Orleans Division. Filed Mar. 28, 1919. Hy. J. Loisil, Dep. Clerk.

233 Issued for Robert H. Marr, Atty.

THE UNITED STATES OF AMERICA:

District Court of the United States, Eastern District of Louisiana.

The President of the United States to Charles Glen Collins, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at the City of Washington, D. C., within 30 days from date hereof, pursuant to a Petition and order of appeal filed in the Clerk's Office of the District Court of the United States for the Eastern District of Louisiana, wherein Tom F. Carlisle, British Consul General, is Appellant, and United States, ex rel. Charles Glen Collins is Appellee, in the cause wherein, United States, ex rel. Charles Glen Collins, is Relator and Frank M. Miller, United States Marshal, is Defendant No. 15,959 of the docket of the District Court of the United States for the Eastern District of Louisiana, New Orleans Division, to show cause, if any there be, why the

judgment rendered against the said Tom F. Carlisle, British Consul General as in said Petition and order of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable William I. Grubb, Judge of the United States District Court, at New Orleans, La., this 28th day of March in the year of our Lord one thousand nine hundred and nineteen.

(Signed)

W. I. GRUBB, *Judge*.

Clerk's Office.

A true copy.

H. J. CARTER, *Clerk*.

New Orleans, La., March 28, 1919.

Received by U. S. Marshal, New Orleans, La., March 29th, 1919, and the same day month and year I served the original of which this is a certified copy on Charles Glen Collins by handing the same to him in person at New Orleans, Louisiana.

FRANK M. MILLER,

*U. S. Marshal,*

By SAM W. TAYLOR,

*Deputy U. S. Marshal.*

[Endorsed:] Return. United States District Court, Eastern District of Louisiana. N. No. 15,959. United States, Ex Rel. Charles Glen Collins. Frank M. Miller, United States Marshal. Citation of Appeal. Marshal's Return. No. —. U. S. District Court, Eastern District of Louisiana, New Orleans Division. Filed Mar. 29, 1919. E. V. Vendling, Dy. Clerk.

Endorsed on cover: File No. 27,063. E. Louisiana D. C. U. S. Term No. 977. Charles Glen Collins, appellant, vs. Frank M. Miller, U. S. Marshal for the Eastern District of Louisiana. File No. 27,061. Term No. 978. Tom F. Carlisle, British Consul General, appellant, vs. Charles Glen Collins. Filed April 11th, 1919. File Nos. 27,063 and 27,064.

STIPULATION FOR ADDITION TO RECORD.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1918.

**No. 977.**

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CHARLES GLEN COLLINS, APPELLANT,

*vs.*

FRANK M. MILLER, U. S. MARSHAL FOR THE EASTERN  
DISTRICT OF LOUISIANA.

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INDEX.

	Original.	Print.
Stipulation for addition to record.....	<i>a</i>	3
Deposition of James Paterson.....	2	5
Hugh Allan.....	4	6
John Richard Campbell Howie.....	8	8
Edward Curtice.....	10	8
James Paterson.....	14	10
Hugh Allan.....	16	11
John Richard Campbell Howie.....	20	13
Edward Curtice.....	21	14
Agreement of counsel to supplemental record on appeal....	26	16
Clerk's certificate.....	29	17





*a* In the Supreme Court of the United States.

No. 977, October Term, 1919.

CHARLES GLEN COLLINS, Appellant,

VS.

FRANK M. MILLER, Appellee.

*Stipulation for Addition to Record.*

Application of Appellee, suggesting diminution of the record, and praying that the depositions of James Paterson and Hugh Allan, taken before A. S. D. Thomson, Sheriff Substitute of Lanakshire, and the depositions of John Richard Campbell Howie and Edward Curtise, taken before Sir John Dickinson, Knight, chief Magistrate of the Bow Street Police Court, London, and the documents annexed to the said last named depositions be made a part of the record herein.

Comes now Appellee, Frank M. Miller, United States Marshal for the Eastern District of Louisiana, and respectfully suggests that, upon the trial of this case before the Honorable Rufus E. Foster, sitting as Extradition Commissioner, the following were offered in evidence, to-wit:

The depositions of James Paterson and Hugh Allan, taken before A. S. D. Thomson, Sheriff Substitute of Lanakshire, and the depositions of John Richard Campbell Howie and Edward Curtise, taken before Sir John Dickinson, Knight, Chief Magistrate of the Bow Street Police Court, London, together with certain documents annexed to said last mentioned depositions, were offered on behalf of the British Consul-General at New Orleans, which said offers were ruled out by said Honorable Rufus E. Foster, sitting as Extradition Commissioner, but to which ruling of said Extradition Commissioner bills of exception were reserved; that, thereafter, Charles Glen Collins applied to the Honorable William I. Grubb, United States District Judge sitting at New Orleans, for the issuance of habeas corpus; that said writ was tried upon the entire record as made up on the extradition proceedings held before the Honorable Rufus E. Foster, sitting as Extradition Commissioner said proceedings including the depositions and documents hereinbefore mentioned.

*b* Now comes Appellee, Frank M. Miller, United States Marshal, as aforesaid, who shows that Counsel representing said Charles Glen Collins, in making up his præcipe to the Clerk of the United States District Court for the Eastern District of Louisiana at New Orleans, omitted from said record the depositions and documents hereinabove mentioned.

Now your Appellee shows that said depositions and documents

annexed are a proper part of the record and should be now added thereto.

Wherefore, the consent of Counsel representing said Charles Glen Collins, which is hereto annexed, being considered, Appellee prays that, without the formal issuance of a writ of certiorari, a certified copy of said documents, together with the original documents annexed to said depositions, be attached hereto, and, when printed copies thereof are filed, be accepted and made a part of the records in this case, and, as in duty bound, petitioner will ever pray.

DONELSON CAFFERY,

*Attorney for Frank M. Miller, Appellee.*

I, J. Zach Spearing, of Counsel for Charles Glen Collins, consent that the depositions and documents hereinabove described shall, without the necessity of a formal application for certiorari be made a part of the record, reserving, however, all rights which the said Charles Glen Collins may have in the premises, it being the sole purpose of this consent to dispense Appellee with the necessity of applying for a certiorari suggesting diminution of the record, and without agreeing that said documents are properly part of the record.

J. ZACH SPEARING,

*Attorney for Charles Glen Collins, Appellant.*

c In the Supreme Court of the United States.

No. 977, October Term, 1918.

CHARLES GLEN COLLINS, Appellant,

vs.

FRANK M. MILLER, Appellee.

Transcript of Depositions of James Paterson, Hugh Allan, John Richard Campbell Howie, and Edward Curtice, Copied and Transmitted to the United States Supreme Court in Accordance with Written Stipulation between Robert H. Marr, Esq., Counsel for Frank M. Miller, and J. Zach Spearing, Esq., Counsel for Charles Glen Collins, Copied at Page 26 Hereof.

1

London, August 15, 1918.

I, Sheldon Leavitt Crosby, Secretary of Embassy of the United States in London, hereby certify that the annexed papers, being a copy of the depositions of James Paterson and Hugh Allan taken before A. S. D. Thomson, Sheriff Substitute of Lanarkshire, and certified by the Assistant Under Secretary for Scotland, and a certificate signed by the Under Secretary of State for India, proposed to be used upon an application for the extradition from the United States of Charles Glen Collins, charged with the crime of obtaining goods by false pretenses alleged to have been committed in Bombay, India, are properly and legally authenticated so as to entitle them

to be received in evidence for similar purposes by the tribunals of India, as required by the Act of Congress of August 3, 1882.

In witness whereof I hereunto sign my name and cause the Seal of the Embassy to be affixed this fifteenth day of August in the Year of our Lord One Thousand Nine hundred and Eighteen.

[SEAL.] (Signed) SHELDON LEAVITT CROSBY,  
*Secretary of Embassy of the United States.*

2 Under the Extradition Act 1873, Section 5.

At Glasgow, this sixth day of August, 1918, in presence of Alexander Stuart Duff Thomson, Esquire, one of the salaried Sheriffs Substitute of the Sherifffdom of Lanarkshire, in accordance with the Authority dated 2nd August 1918 issued by His Majesty's Secretary for Scotland to the Sheriff of Lanarkshire or one of the salaried Sheriffs Substitute, to take in manner prescribed by the Extradition Act, 1873, evidence for the purpose of a criminal matter pending in a Court or Tribunal at New York, in the United States of America, regarding an alleged theft by Charles Glen Collins of pearl buttons from Mohammed Alli Zamal Ali Raze at Bombay, India, in or about February 1917.

Compeared JAMES PATERSON, residing at Castlewood, Cathcart, who being sworn and examined depones:

I am a Director of the firm of William Collins Sons & Company, Limited, Book Publishers, Glasgow. I have been so for 10 years. That firm was formed into a limited liability company in 1880. I have been connected with the business for about/

(Sig.)

JAMES PATERSON.

(Sig.) HUGH ALLAN.

(Sig.) A. S. D. THOMSON.

3 about 36 years all together. I am aware of the existence of Charles Glen Collins. I have no personal acquaintance with him. I saw him once. I cannot describe him. He is somewhere about 45 years of age. It is within my knowledge that he has been serving in the Army during the present War. I do not know whether he is at present in the Army or not. He is not a partner of the Company of William Collins Sons & Company, Limited. He never was a partner in the business either before or since the formation of the Limited Liability Company. He is not and never has been a shareholder in the business. He is not and never has been an employee in the business. He never at any time had any personal connection whatever with the business. His great grandfather founded the business over a century ago and his father was for some years a Director but ceased to be so about 35 years ago. He has no authority whatever to draw on the Company. He never had an authority to draw on the Company. He could have no reason whatever for believing that a draft by him on the Company would

be honoured. He has two brothers Directors in the Company, Mr. William A. Collins and Mr. Godfrey P. Collins. These gentlemen are both in the Army. The latter is a member of Parliament. I am quite sure that neither of them would honour a draft by him on the Company/

(Sig.)

JAMES PATERSON.

(Sig.) HUGH ALLAN.

(Sig.) A. S. D. THOMSON.

4 *Company.* During the last 5 or 6 years he has occasionally drawn on the Company for money. He has done so perhaps on four occasions altogether. None of these drafts was ever honoured. I remember a draft by him on the Company for £4000 in favor of someone in India being presented to us. I have not a note of the date. It may have been early in 1917. It was presented twice. Payment was refused each time. I think this was the last of his drafts.

All which I depone as truth.

(Signed)

JAMES PATERSON.

(Signed) HUGH ALLAN.

(Signed) A. S. D. THOMSON.

Compeared also HUGH ALLAN, residing at Glencaple, Strathaven, Lanarkshire, who being sworn and examined depones:

I am a Director of William Collins Sons & Company, Limited, Publishers, Glasgow. I have been connected with the business in different capacities for 45 years. I have no personal acquaintance with Charles Glen Collins. I know of his existence and know who he is. I corroborate in full the evidence of James Paterson.

All which I depone as truth.

(Signed)

HUGH ALLAN.

(Signed) A. S. D. THOMSON.

I/

5 I certify that the evidence contained in the foregoing Depositions was taken before me. Charles Glen Collins was not present.

(Signed)

A. S. D. THOMSON,

*Sheriff Substitute of Lanarkshire.*

Certified at the Scottish Office Whitehall for verification of the signature of Alexander Stuart Duff Thomson, Advocate, Sheriff Substitute of Lanarkshire.

(Signed)

JOHN LAMB,

*Assistant Under Secretary for Scotland.*

In forwarding the annexed papers to be used in support of an application for the surrender from the United States of Charles Glen Collins, charged with the crime of obtaining goods by false pretences (called in the Indian Penal Code "Cheating") committed by him,

in Bombay, I hereby certify that to the best of my knowledge and belief the signature "A. S. D. Thomson" on the above depositions is the signature of Alexander Stuart Duff Thomson, Sheriff Substitute of Lanarkshire, Glasgow, having authority to receive the same, and I further certify that such documents so signed by a Sheriff substitute having magisterial jurisdiction in the place where the same were taken, and authenticated by a Minister of State and sealed with his official seal, would be received in evidence for similar purposes by the tribunals of India.

[SEAL.] (Signed)

A. HIRTZEL,  
*Assistant Under Secretary of State for India.*

India Office, Whitehall, S. W., 12th August, 1918.

6 Certified at the Foreign Office for Legalization of the foregoing signature "A. Hirtzel."

London, August 14, 1918.

(Signed)

VICTOR WELLESLEY, [SEAL.]  
*Assistant Under Secretary of State  
for Foreign Affairs.*

Certified at the American Embassy in London for the authentication of the signature of Mr. Victor Wellesley, Assistant Under Secretary of State for Foreign Affairs, and of the Seal of His Britannic Majesty's Foreign Office, this fifteenth day of August, 1918.

(Signed)

[SEAL.]

SHELDON LEAVITT CROSBY,  
*Secretary of Embassy.*

7

London, June 22, 1918.

I, Sheldon Leavitt Crosby, Secretary of Embassy of the United States in London, hereby certify that the annexed papers, being a copy of the depositions of James Paterson, Hugh Allan and A. S. D. Thomson, and of the evidence of John Richard Campbell Howie and Edward Curtice, and a certificate signed by the Under Secretary of State for India, proposed to be used upon an application for the extradition from the United States of Charles Glen Collins, charged with the crime of obtaining goods by false pretences alleged to have been committed in Bombay, India, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of India, as required by the Act of Congress of August 3, 1882.

In witness whereof I hereunto sign my name and cause the Seal of the Embassy to be affixed this Twenty-second day of June in the Year of our Lord One Thousand Nine Hundred and Eighteen.

(Signed)

[SEAL.]

SHELDON LEAVITT CROSBY,  
*Secretary of Embassy of the United States.*

London, sitting at the Bow Street Police Court having authority to receive the same, and I further certify that such documents so signed by a Magistrate having jurisdiction in the place where the same were taken and authenticated by a Minister of State, and sealed with his official seal would be received in evidence for similar purposes by the tribunals of India.

(Signed)  
[SEAL.]

J. W. HOLDERNESS,  
*Under Secretary of State for India.*

India Office, Whitehall, S. W., 18th June 1918.

Certified at the Foreign Office for Legalization of the Foregoing signature "J. W. Holderness."

London, June 19, 1918.

(Signed)  
[SEAL.]

CYRE A. CROWE,  
*Assistant Under Secretary of  
State for Foreign Affairs.*

Certified at the American Embassy in London for the authentication of the Signature of Sir Cyre A. Crowe, K. C. M. G., K. C. B., Assistant Under Secretary of State for Foreign Affairs, and of the seal of His Britannic Majesty's Foreign Office this twenty-second day of June, One Thousand nine hundred and eighteen.

(Signed)

SHELDON LEAVITT CROSBY,  
*Secretary of Embassy.*

At Glasgow, this fifth day of June, 1918, in presence of Alexander Stuart Duff Thomson, Esquire, one of the salaried Sheriffs Substitute of the Sheriffdom of Lanarkshire, in accordance with the Authority dated 1st June 1918 issued by His Majesty's Secretary for Scotland to the Sheriff of Lanarkshire or one of the salaried Sheriffs Substitute, to take in manner prescribed by the Extradition Act 1873, evidence for the purpose of a criminal matter pending in a Court or Tribunal at New Orleans in the United States of America, regarding the purchase by Lieutenant Colonel Charles G. Collins, of certain articles of jewelery from the firm of Pohoomull Brothers, Bombay.

Compeard JAMES PATERSON, residing at Castlewood, Catheart, who being sworn and examined depones:

I am a Director of the firm of William Collins Sons & Company Limited, Book Publishers, Glasgow. I have been so for 10 years. That firm was formed into a limited liability company in 1880. I have been connected

(Signed)

JAMES PATERSON.

(Signed) HUGH ALLAN.  
" A. S. D. THOMSON.

15 *connected* with the business for about 36 years all together.

I am aware of the existence of Charles Glen Collins. I have no personal acquaintance with him. I saw him once. I cannot describe him. He is somewhere about 45 years of age. It is within my knowledge that he has been serving in the Army during the present War. I do not know whether he is at present in the Army or not. He is not a partner of the Company of William Collins Sons & Company Limited. He never was a partner in the business either before or since the formation of the limited liability company. He is not and never has been a shareholder in the business. He is not and never has been an employee in the business. He never at any time had any personal connection whatever with the business. His great grandfather founded the business over a century ago and his father was for some years a Director but ceased to be so about 35 years ago. He has no authority whatever to draw on the Company. He never had any authority to draw on the company. He could have no reason whatever for believing that a draft by him on the company would be honoured. He has two brothers Directors in the company, Mr. William A. Collins and Mr. Godfrey P. Collins. These gentlemen are both in the Army. The latter is a member of Parliament. I am quite sure that neither of them would honour a draft by him on the Company. As During the last 5 or 6 years

(Signed)

JAMES PATERSON.

(Signed) HUGH ALLAN.

A. S. D. THOMSON.

*years* he has occasionally drawn on the Company for money. He has done so perhaps on four occasions altogether. None of these drafts was ever honoured. I remember a draft by him on the Company for £4000 in favour of someone in India being presented to us. I have not a note of the date. It may have been early in 1917. It was presented twice. Payment was refused each time. I think this was the last of his drafts.

16 All which I depone as truth.

(Signed)

JAMES PATERSON.

(Signed) HUGH ALLAN.

A. S. D. THOMSON.

Compeared also HUGH ALLAN, residing at Glencaple, Strathaven, Lanarkshire, who being sworn and examined depones:

I am a director of William Collins Sons & Company Limited, Publishers, Glasgow. I have been connected with the business in different capacities for 45 years. I have no personal acquaintance with Charles Glen Collins. I know of his existence and know who he is. I corroborate in full the evidence of James Paterson.

All which I depone as truth.

(Signed)

HUGH ALLAN.

(Signed) A. S. D. THOMSON.

I/



I certify that the evidence contained in the foregoing Depositions was taken before me. Charles Glen Collins was not present.

(Signed)

A. S. D. THOMSON,  
*Sheriff Substitute of Lanarkshire.*

"Certified at the Scottish Office "Whitehall for verification of the signature of Alexander Stuart Duff Thomson, Sheriff Su<sup>t</sup>stitute of Lanarkshire, Glasgow.

(Signed)

[SEAL.]

JOHN LAMB,  
*Assistant Under Secretary for Scotland.*

Scottish Office,

Whitehall, 10th June, 1918.

In forwarding the annexed papers, to be used in support of an application for the surrender from the United States of Charles Glen Collins, charged with the crime of obtaining goods by false pretenses (called in the Indian Penal Code "Cheating") committed by him in Bombay, I hereby certify that to the best of my knowledge and belief, the signature "A. S. D. Thomson" annexed to the foregoing depositions is the signature of Alexander Stuart Duff Thomson, Sheriff Substitute of Lanarkshire, Glasgow, having authority to receive the same and I further certify that such *such* documents so signed by a Sheriff Substitute having magisterial jurisdiction in the place where the same were taken, and authenticated by a Minister of State, and sealed with his official Seal, would be received in evidence for similar purposes by the tribunals of India.

(Signed)

[SEAL.]

J. W. HOLDERNESS,  
*Under Secretary of State for India.*

India Office, Whitehall, S. W., 18th June, 1918.

Certified at the foreign office for legalization of the foregoing signatures, "John Lamb" and "J. W. Holderness."

London, June 19, 1918.

(Signed)

CYRE A. CROWE,  
*Assistant Under Secretary of Foreign Affairs.*

Certified at the American Embassy in London for the authentication of the signature of Sir. Cyre A. Crowe, H. C. M. G., K. C. B., Assistant Under Secretary of State for Foreign Affairs, and of the Seal of His Britannic Majesty's Foreign Office, this twenty-second day of June, One thousand nine hundred and eighteen.

(Signed)

[SEAL.]

SHELDON LEAVITT CROSBY,  
*Secretary of Embassy.*

Embassy of the United States of America,

London, August 9, 1918.

I, Sheldon Leavitt Crosby, Secretary of Embassy of the United States in London, hereby certify that the annexed papers, being a

copy of the evidence of John Richard Campbell Howie and Edward Curtice, a certificate signed by the Chief Magistrate of the Police Courts of the Metropolis and a certificate signed by the Under Secretary of State for India, proposed to be used upon an application for the extradition from the United States of Charles Glen Collins, charged with the crime of obtaining goods by false pretenses alleged to have been committed in Bombay, India, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of India, as required by the Act of Congress of August 3, 1882.

In witness whereof I hereunto sign my name and cause the seal of the Embassy to be affixed this ninth day of August in the Year of our Lord One Thousand Nine Hundred and Eighteen.

(Signed)

SHELDON LEAVITT CROSBY,

*Secretary of Embassy of the United States.*

20 METROPOLITAN POLICE DISTRICT, *To wit:*

Bow Street Police Court.

The Evidence of John Richard Campbell Howie and Edward Curtice taken before me, the undersigned, Sir John Dickinson, Knight, Chief Magistrate of the Police Courts of the Metropolis, sitting at the Bow Street Police Court, in the County of London, and within the Metropolitan Police District, pursuant to an order under the hand and seal of one of Her Majesty's Principal Secretaries of State, for the purpose of a certain criminal matter pending in a certain Foreign Court, to wit, at New York, within the jurisdiction of the United States of America, under the provisions of the 5th section of the Extradition Act, 1873, on this 31st day of May, in the Year of our Lord One Thousand Nine Hundred and Eighteen, in the absence of the person charged.

And the Deponent JOHN RICHARD CAMPBELL HOWIE, on oath saith as follows:

I am a bank official of the International Banking Corporation 36 Bishopsgate, E. C. 2.

I produce a draft for £1700, purporting to be drawn by Charles G. Collins on 26th February 1917, payable on demand, drawn upon E. Curtice & Co., 8 Clarges Street, London, W. Our banking Company received it from our branch at Bombay for collection. This was the only draft that we had, drawn upon E. Curtice and Co. of 8 Clarges Street.

21 The draft was presented by our bankers—the National and Provincial Bank of England—it was not paid. I saw Mr. Curtice—who is here to-day as a witness—at our bank, about the end of March or the beginning of April 1917, with reference to the draft: The draft was not met.

We notified our Bombay office at once. Upon their instructions

the bill was presented again at the beginning of May 1917, and was not paid; and Mr. Curtice came to our bank and I saw him again. We notified our Bombay office again on the 8th May that the bill had been re-presented and that there were no funds to meet it.

I produce also a photograph of a draft dated 26th February 1917, drawn by Charles G. Collins, Lt. Col. on William Collins Sons & Co. Ltd. of Glasgow, for £4000. We received this draft from our Bombay office about the same time as the draft for £1700, for presentation, and we sent it to our agents, the British Linen Bank at Glasgow. We never received any money for it; the draft was returned to us through our agents with the note "No authority to draw," dated 17/4/17. We notified our Bombay office; we held the draft for a time and then returned it to our Bombay office.

(Signed)

J. R. CAMPBELL HOWIE.

And the Deponent EDWARD CURTICE on oath saith as follows:

I live at 8 Clarges Street, W. 1. My wife is lessee of 8, Clarges Street, a house which is let out in suites, furnished and unfurnished. I do not carry on any business there at all. I do not carry on any agency business there or anywhere; I do not carry on any banking business anywhere. I am not a member of any firm or company. I do not know of any firm or company called E. Curtice and Company of E. Curtice & Sons, existing now or in the early months of 1917, nor for years and years. A good number of years ago, 22 20 or more, my father and I traded as publishers and printers and news agents in Catherine Street, Strand, under the style of Curtice and Company. The firm became Macrae, Curtice & Co. Ltd., and afterwards the Hansard Union.

The photograph now shewn to me I recognize as that of Charles Glen Collins, whom I have known for some 10 or 12 years—prior to that I knew his father and uncle, and had business relations with the firm of William Collins Sons and Co. Ltd. of Glasgow, printers and publishers.

Defendant had no right or authority from me to draw upon me in February 1917 for £5000 or for any sum. He never advised me that he had done so. If he had written to me asking my authority to draw upon me for £5000 I should have had to refuse.

I received no communication whatever, and no telegraphic or cable request from him in February 1917 to pay a sum of £5000 to the International Banking Corporation.

Collins knew perfectly well that unless he provided the funds I should not meet any such draft for £5000 drawn by him. About the end of March and at the beginning of May 1917, a draft for £1700 was presented, and re-presented to me for payment through the International Banking Corporation; no funds had been provided for me to meet it, and I refused to pay it. I have had no communication *communication* whatever from Collins in regard to the drafts for £5000 and £1700.

About the beginning of 1917 I received a letter from Collins—I do not remember from where—in which he referred to some oil

property of his. He did not ask my advice; and I did not give him any advice; and did not reply to his letter.

(Signed)

EDWARD CURTICE.

23 I hereby certify that the foregoing evidence of John Richard Campbell Howie and Edward Curtice was taken and sworn before me at the Bow Street Police Court aforesaid on the 31st day of May, in the Year of our Lord One Thousand Nine Hundred and Eighteen pursuant to the 5th section of the Extradition Act, 1873, in the absence of the person charged.

(Signed)

JOHN DICKINSON,

[SEAL.]

*Chief Magistrate of the Police Courts  
of the Metropolis.*

I hereby certify that the written, printed and type-written matter contained in the fore-going five sheets of paper is a correct copy of evidence taken by me in pursuance of an order of the Secretary of State for the purposes of a certain criminal matter pending in a certain foreign Court, to wit, at New York, in the United States of America.

Given under my hand and seal at Bow Street Police Court, in the Metropolitan Police District, this 28th day of July 1918.

(Signed)

JOHN DICKINSON, [SEAL.]

*Chief Magistrate of the Police Courts of the Metropolis.*

In forwarding the annexed papers, to be used in support of an application for the surrender from the United States of Charles Glen Collins charged with the crime of obtaining goods by false pretenses (called in the Indian Penal Code "Cheating")

24 committed by him in Bombay, I hereby certify that to the best of my knowledge and belief the signature "John Dickinson" annexed to the foregoing depositions is the signature of Sir John Dickinson, Knight, Chief Magistrate of the Police Courts of the Metropolis of London, sitting at the Bow Street Police Court, having authority to receive the same, and I further certify that such documents so signed by a magistrate having jurisdiction in the place where the same were taken, and authenticated by a Minister of State, and sealed with his official seal, would be received in evidence for similar purposes by the tribunals of India.

(Signed)

J. W. HOLDERNESSE, [SEAL.]

*Under Secretary of State for India.*

India Office, Whitehall, S. W., August 1, 1918.

Certified at the Foreign Office for Legalisation of the Foregoing signature, "J. W. Holderness."

London, August 6, 1918.

(Signed)

W. LANGLEY,  
*Assistant Under Secretary  
of State for Foreign Affairs.*

Certified at the American Embassy in London for the authentication of the signature of Sir Walter Langley K. C. M. G., C. B. Assistant Under Secretary of State for Foreign Affairs, and of the Seal of His Britannic Majesty's Foreign Office, this ninth day of August, 1918.

25

(Signed)  
[SEAL.]

SHELDON LEAVITT CROSBY,  
*Secretary of Embassy.*

26

*Agreement of Counsel to Supplemental Record on Appeal.*

Filed April 22, 1919.

In the Supreme Court of the United States.

No. 977, October Term, 1918.

CHARLES GLEN COLLINS, Appellant,

vs.

FRANK M. MILLER, Appellee.

Application of Appellee, suggesting diminution of the record, and praying that the depositions of James Paterson and Hugh Allan, taken before A. S. D. Thomson, Sheriff Substitute of Lanarkshire, and the depositions of John Richard Campbell Howie and Edward Curtise, taken before Sir John Dickinson, Knight, Chief Magistrate of the Bow Street Police Court, London, and the documents annexed to the said last named depositions be made a part of the record herein:

Comes now the Appellee, Frank M. Miller, United States Marshal for the Eastern District of Louisiana, and respectfully suggests that, upon the trial of this case before the Honorable Rufus E. Foster, sitting as Extradition Commissioner, the following were offered in evidence, to-wit:

The depositions of James Paterson and Hugh Allan, taken before A. S. D. Thomson, Sheriff Substitute of Lanarkshire, and the depositions of John Richard Campbell Howie and Edward Curtise, taken before Sir John Dickinson, Knight, Chief Magistrate of the Bow Street Police Court, London, together with certain documents annexed to said last mentioned depositions, were offered on behalf of the British Consul-General at New Orleans, which said offers were ruled out by said Honorable Rufus E. Foster, sitting as extradition commissioner, but to which ruling of Extradition Commissioner bills of exception were reserved; that, thereafter, Charles Glen Collins applied to the Honorable William I. Grubb, United States District Judge sitting at New Orleans, for the issuance of habeas corpus; that said writ was tried upon the entire record as made up on the extradition proceedings held before the Honorable Rufus E. Foster sitting as Extradition Commissioner, said proceed-

27

ings including the depositions and documents hereinabove mentioned.

Now comes Appellee, Frank M. Miller, United States Marshal, as aforesaid, who shows that Counsel representing said Charles Glen Collins, in making up his praepipe to the Clerk of the United States District Court for the Eastern District of Louisiana at New Orleans, omitted from said record the depositions and documents hereinabove mentioned.

Now your Appellee shows that said depositions and documents annexed are a proper part of the record, and should be now added thereto.

Wherefore, the consent of Counsel representing said Charles Glen Collins, which is hereto annexed, being considered, Appellee prays that, without the formal issuance of a writ of certiorari, a certified copy of said documents, together with the original documents annexed to said depositions be attached hereto, and when printed copies thereof are filed, be accepted and made a part of the records in this case, and as in duty bound, petitioner will ever pray.

(Signed)

ROBERT H. MARR,

For FRANK M. MILLER, *Appellee*.

28 I, J. Zach Spearing, of Counsel for Charles Glen Collins, consent that the depositions and documents hereinabove described shall, without the necessity of a formal application for a writ of certiorari, be made a part of the record, reserving, however, all rights which the said Charles Glen Collins may have in the premises, it being the sole purpose of this consent to dispense Appellee with the necessity of applying for a certiorari suggesting diminution of the record, and without agreeing that said documents are properly a part of the record.

(Signed)

J. ZACH SPEARING.

29 UNITED STATES OF AMERICA:

District Court of the United States, Eastern District of Louisiana.

Clerk's Office.

I, Henry J. Carter, Clerk of the United States District Court for the Eastern District of Louisiana, do hereby certify that the foregoing 28 pages contain a true and correct transcript of the depositions of James Paterson and Hugh Allan, taken before A. S. D. Thomson, Sheriff Substitute of Lanarkshire, and the depositions of John Richard Campbell Howie and Edward Curtice, taken before Sir John Dickinson, Knight, Chief Magistrate of the Bow Street Police Court, London, originally filed in the case of "In the matter of Extradition proceedings versus Charles Glen Collins," No. 15,936, of the Docket of the U. S. District Court, East. Dist. of La. and filed also in case entitled "United States, Ex Rel., Charles Glen Collins versus Frank M. Miller, U. S. Marshal," No. 15,959 of the Docket of the U. S. Dis-

trict Court, Eastern District of Louisiana, except certain photographic exhibits and original draft attached to depositions of John Richard Campbell Howie and Edward Curtice taken at Bow Street Police Court on May 31, 1918, which said originals are omitted from this transcript; the said transcript being made in accordance with the written stipulation filed April 22, 1919, in said cause and copied at page 26, hereof.

Witness my hand, and the seal of the said Court, at the City of New Orleans, Louisiana, this 30th day of April, A. D. 1919.

[Seal U. S. District Court for the Eastern Dist. of La., N. O. Div.]

H. J. CARTER, *Clerk*.

30 [Endorsed:] File No. 27,063. Supreme Court U. S. October Term, 1918. Term No. 977. Charles Glen Collins, Appellant, vs. Frank M. Miller. Stipulation and addition to record. Filed May 15, 1919.



FILED

OCT 3 1919

JAMES D. MAHER;  
CLERK.

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1919.

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*No. 350.*

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CHARLES GLEN COLLINS,  
Appellant,

*versus*

FRANK M. MILLER, U. S. MARSHAL,  
Appellee.

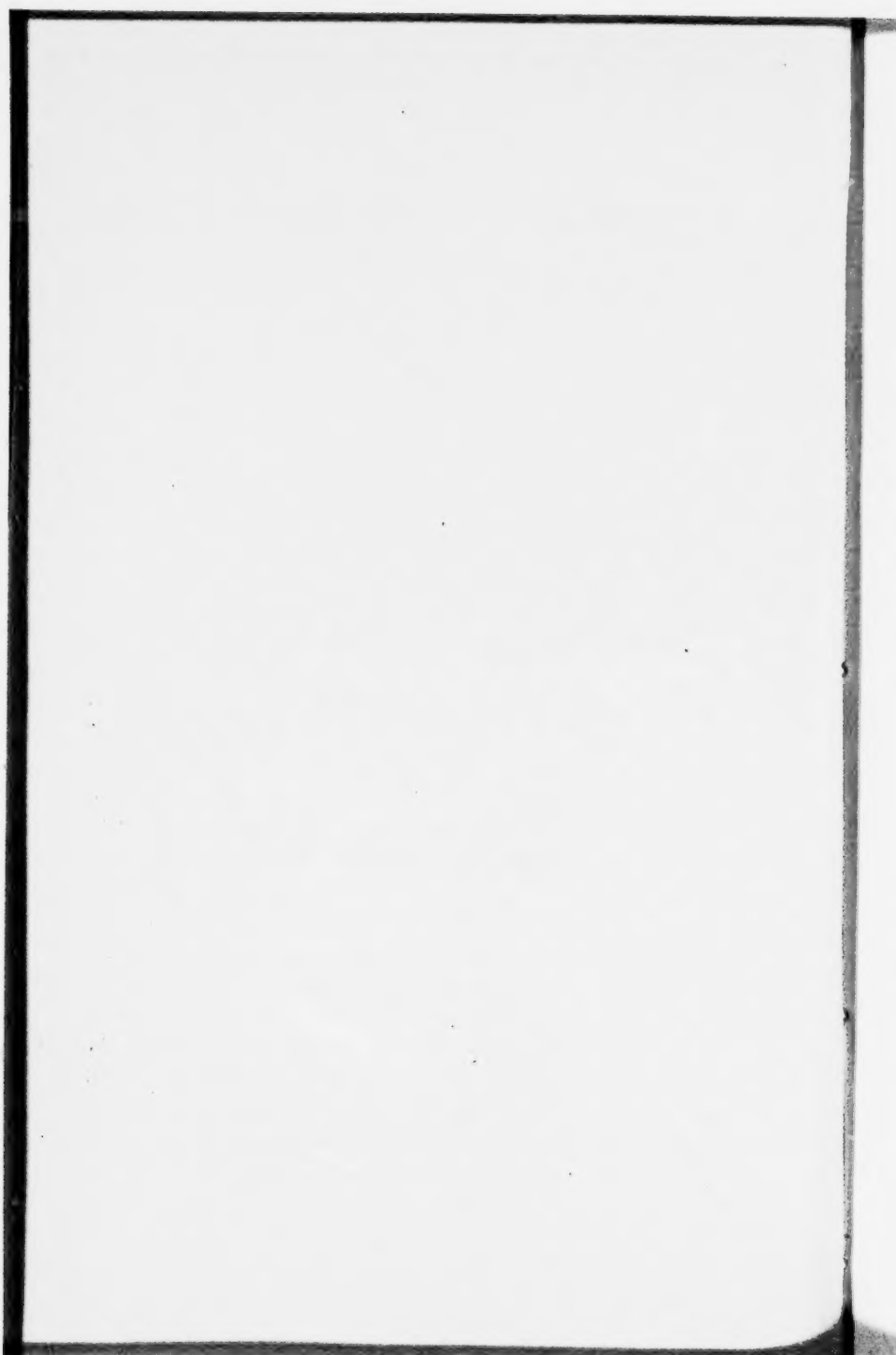
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MOTION TO ADVANCE.

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DONALDSON CAFFERY,  
*Counsel for Appellee.*

ROBERT H. MARR,  
*Of Counsel.*



IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1919.

---

*No. 350.*

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**CHARLES GLEN COLLINS,**  
**Appellant,**  
*versus*  
**FRANK M. MILLER, U. S. MARSHAL,**  
**Appellee.**

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**MOTION TO ADVANCE.**

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Comes now Donaldson Caffery, of counsel for Frank M. Miller, United States Marshal, and for the British Consul-General at New Orleans, and suggesting to the Court that Charles Glen Collins, having been committed to custody to be held for extradition to British India for trial on charges pending against him in the Chief Residency Magistrate's Court at Bombay, India, applied for writs of habeas corpus, which said writs being refused, said Charles Glen Collins has prosecuted this appeal.

And, further suggesting to the Court that this is a criminal case and one of international extradition; that the offenses for which the extradition of said Collins is sought are alleged to have been committed in British India in February, 1917; that the original affidavits herein were filed on November 5, 1917, ever since which said date the

officer designated by the Government of British India to receive and take back to India said Collins has been in New Orleans, awaiting the termination of these extradition proceedings; that notwithstanding the earnest efforts of the British Consul-General at New Orleans to bring about speedy hearings, said hearings were not actually held until October and November, 1918; that on October 30, 1918, said Collins was committed to await extradition under two of said affidavits, and on November 21, 1918, was committed to await extradition under the third of said affidavits; that on January 9, 1919, said Collins applied for *habeas corpus*, which said writ was on February 21, 1919, denied; that the appeal herein was filed in this Honorable Court, April 11, 1919; that the proper administration of criminal justice and the carrying out of the treaty obligations existing between the United States and Great Britain require as speedy a termination as practicable of the issues herein involved.

Moves the Court that this case be now advanced on the docket.

DONALDSON CAFFERY,

*Counsel for Appellee.*

ROBERT H. MARR,

*Of Counsel.*

Mr. J. Zach Spearing,

Attorney for Charles Glen Collins.

My Dear Sir:—You will hereby please take notice that on the sixth (6th) day of October, nineteen hundred and nineteen (1919), at the court room of the Supreme Court

of the United States in the City of Washington, District of Columbia, and in accordance with Rule 6 of said Honorable Court, Frank M. Miller, United States Marshal for the Eastern District of Louisiana, and the British Consul-General at New Orleans, will submit for the consideration of the said Court the annexed and foregoing motion to advance said appeal.

Said motion will be submitted upon all of the grounds set forth herein; will be based upon the record, papers and files in said case.

Dated at New Orleans, Louisiana, this 10th day of September, 1919.

DONALDSON CAFFERY.

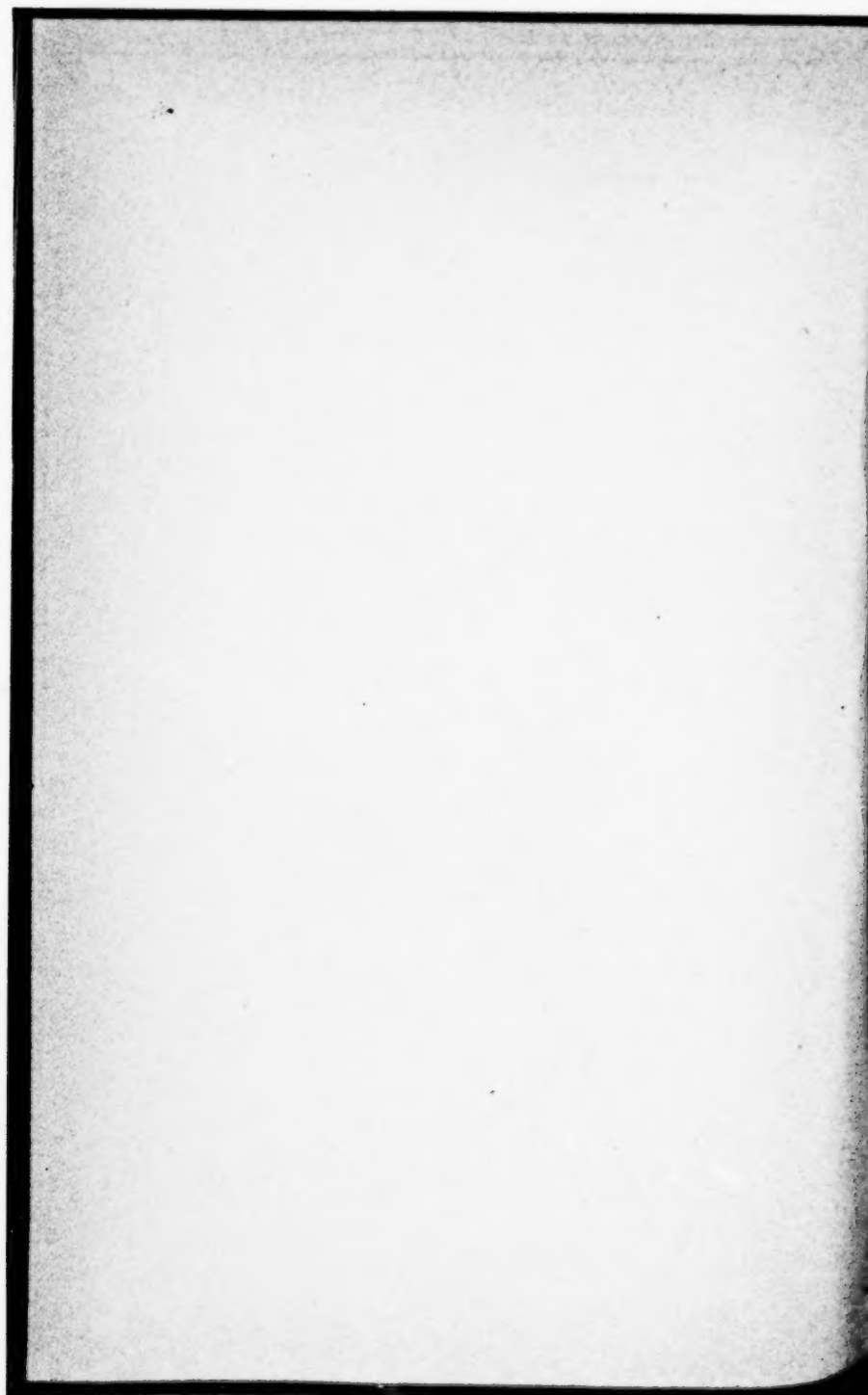
I hereby acknowledge service upon me of motion to advance, as well as copy of said motion.

J. ZACH SPEARING,  
*Attorney for Charles Glen Collins.*

September 10, 1919.

I hereby certify that copy of within motion and of notice were served personally upon J. Zach Spearing, Esq., counsel for appellant, September 10, 1919.

DONALDSON CAFFERY.



FILED  
MAY 17 1919

JAMES D. MAHER,  
CLERK.

No. 5

350

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IN THE  
**Supreme Court of the United States**

---

*Appeal From the District Court of the United States for  
the Eastern District of Louisiana.*

---

**CHARLES GLEN COLLINS,**

**Appellant,**

*versus*

**FRANK M. MILLER, U. S. MARSHAL,**

**Appellee.**

---

**BRIEF ON MOTION TO DISMISS APPEAL.**

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**DONALDSON CAFFERY,**

*Of Counsel for F. M. Miller, U. S. Marshal, Appellee,  
and Tom F. Carlisle, British Consul General.*

**May 1, 1919.**

1891

1892

1893

1894

1895

1896

1897

1898

1899

1900



**No. 977.**

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**IN THE  
Supreme Court of the United States**

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***Appeal From the District Court of the United States for  
the Eastern District of Louisiana.***

---

**CHARLES GLEN COLLINS,**

**Appellant,**

***versus***

**FRANK M. MILLER, U. S. MARSHAL,**

**Appellee.**

---

**BRIEF ON MOTION TO DISMISS APPEAL.**

---

Three separate affidavits were filed by the British Consul General at New Orleans, charging that Charles Glen Collins was a fugitive from the justice of British India; that he had obtained by false pretenses from Pohoomul Brothers a pearl necklace of the value of seventy-five thousand rupees (£5,000); that he had obtained by false pre-

tenses from Geneshi Lall & Sons, jewelry of the value of two thousand pounds (£2,000), and that he had obtained by false pretenses from Mohamed Ali Raza a pearl button of the value of seventeen hundred pounds (£1,700). The false pretenses consisted mainly in the issuance of drafts without authority to draw, upon a firm falsely stated to be bankers, and by false representation of himself as a man of wealth.

The first two affidavits hereinabove mentioned were tried together, the third separately, but the Honorable Rufus E. Foster, Judge of the United States District Court for the Eastern District of Louisiana, sitting as Extradition Commissioner, consolidated all three affidavits into one case.

Upon the trial of the first two affidavits, Collins was sworn as a witness in his own behalf; but, after testifying that he was the man wanted, and had gotten the jewelry, the Judge refused to allow him to testify how the transactions came about, the purpose of this further testimony being to disprove the charge of obtaining by false pretenses. (Trans. pp. 60, 61.) Collins then offered a Mr. Smith as a witness, the purpose being to show that Collins had entered into certain oil transactions in the United States, out of which he expected to pay the jewelers (Trans. p. 64). This evidence was properly ruled out; it would not have been admissible even had the trial been on the merits. Under the third affidavit, Collins was examined at length, and gave in full his side of the controversy.

*Habeas corpus* was applied for, which was refused as to the case last mentioned; as to the first two affidavits hereinabove mentioned, he was ordered held under the original affidavits, and the cause was remanded to the Honorable Ru-

fus E. Foster, Judge, to the end that relator be given the opportunity of introducing such evidence as he might offer at a preliminary examination under the law of Louisiana. (Trans. p. 105.)

The recitals of the application for *habeas corpus*, and in the assignment of errors are practically the same (Trans. 110-113). These allegations are:

1st. That relator stands charged in Bombay with cheating under Section 420 of the Indian Penal Code, and that cheating is not an extraditable offense.

2nd. That he was denied the right of making a voluntary statement in his own behalf, and of adducing witnesses in his own behalf.

3rd. That there was submitted to the Extradition Commissioner no legal proof of relator's having committed any crime.

4th. That none of the depositions, papers, or exhibits offered in evidence was properly authenticated.

5th. That the transactions disclosed by the depositions are criminal, neither under the law of British India nor of Louisiana, but were merely commercial transactions.

6th. That, if criminal under the law of India, then, the offense is cheating and not extraditable.

7th. Variance in the documents forwarded from India, in that the charge made against Collins in India is cheating, while, in the authenticating certificates of the Secretary for the Indian Government, and of the Consul-General of the United States at Calcutta, the charges are stated as being that of obtaining valuable property by false pretenses; it is then

set out that the difference between cheating and obtaining by false pretenses is that cheating is a false representation of what is going to be, false pretenses a false representation of what is or has been.

1.

In each of the three cases it is certified by the Secretary to the Government of India in the Foreign Political Department that the accused "is charged with the crime of obtaining valuable property by false pretenses alleged to have been committed in Bombay." (Trans. pp. 14, 37, 78.) In two of the cases, the Chief Presidency Magistrate at Bombay, in his warrant of arrest, certified that "Lieutenant-Colonel Charles Glen Collins stands charged with the offense of obtaining property by false pretenses under Section 420 of the Indian Penal Code." (Trans. pp. 38, 78.)

One of these two affidavits says, "within the jurisdiction of my court;" the other (the one in which the *habeas corpus* was refused) uses the equivalent phrase, "at Bombay," hence, as to these two affidavits, the record disproves the verity of relator's complaint. As to the third affidavit, complaint rests upon the most fragile of foundations. It is true that the warrant for the arrest of relator, issued before the depositions were taken, recites (Trans. p. 15) "Whereas one Lieutenant-Colonel Charles Glen Collins stands charged with the offense of cheating at Bombay, under Section 420 of the Indian Civil Code, in respect of a pearl necklace valued at Rs. 75,000." But, after hearing the evidence, the Chief Presidency Magistrate certifies "that a *prima facie* case of an offense at Bombay of cheating under Section 420 of the Indian Penal Code in respect of obtaining by false pretenses a pearl necklace valued at Rs. 75,000, has been es-

tablished against the accused, Lieutenant-Colonel Charles Glen Collins." (Trans. p. 32.) There is not even a seeming difference between the warrant of arrest and the finding of the Magistrate in India. Cheating is a generic term and applies to any fraudulent device by means of which one is induced to part with the ownership of his property, hence, it necessarily includes the obtaining by false pretenses. The Magistrate certifies that the particular sort of cheating with which relator stands charged is obtaining by false pretenses. The request for extradition corresponds with the finding of the Magistrate. It is not the name which the offense bears in different countries that entitles to extradition, but the criminality of the acts complained of. If the same state of facts is criminal in India and in Louisiana, no matter what name that state of facts may bear in India, the accused is extraditable. This must be so, otherwise extradition treaties between countries speaking different languages would be impossible. In other words, the right to extradite is based upon what the accused is charged with doing, not upon the name that that charge bears. In the case of *Roth*, 15 Fed. 506, the documentary proofs were in German and described proceedings in Switzerland as for "Unterschlagung," which may mean embezzlement ("soustraction") or only abuse of trust ("d'abus de confiance"), the latter not being a treaty offense, and the certificate to the authentication of the document stated in French that they are for a proceeding "d'abus de confiance," it was held that the error in the certificate, if it was such, was immaterial, and that it was to be presumed that the requisition for the accused was for a trial upon the treaty offense. The Circuit Court of Appeals, in *United States vs. Green*, 154 Fed. 401 (affirmed 207 U. S. 596) say:

"While the extradition of a prisoner from a foreign country for trial in the United States and the indictment on which he is tried must be for the same criminal cause, it does not follow that a crime must have the same name in both countries, but it is sufficient if the acts in question are criminal in both countries, and are within the terms of the treaty on which the extradition is granted."

In *Wright vs. Henckle*, 190 U. S. 858, the Court say:

"The general principle of International Law is that in all cases of extradition *the act done on account of which extradition is demanded must be considered as a crime by both parties.*" (Italics ours.)

To the same effect is *Kelly vs. Griffin*, 241 U. S. 6.

## 2.

In two of the cases Collins as a witness in his own behalf was not allowed to present his defense, the Judge very properly holding that the merits could not be gone into in extradition proceedings, that matters of defense could be urged only in the trial court in India. As to these two affidavits, relator's complaint is utterly frivolous since, on *habeas corpus*, these two affidavits were remanded, with instructions to the Extradition Commissioner to hear relator.

The other evidence offered by relator would have been inadmissible even upon a trial upon the merits, the purpose of the offer being, not to show what representations relator made when he induced the jewelers to part with their wares, but it was to show that relator expected to make some money out of some sort of an oil speculation, and that, if he had made that money, he could have paid the Indian jewelers.

In the third case in which the writ was refused, relator was sworn and examined as a witness in his own behalf, cross-examined and re-examined, and by his own evidence stands convicted (Trans. pp. 89-97). He admits that he gave in payment for a pearl button valued at seventeen hundred pounds (£1,700), a draft on C. Curtice & Company, No. 8 Clarges street, London, a drawee on whom he had no right to draw, in whose hands he had no funds, and whom he had not notified of any intention to draw, and on whom he had already given one jeweler a draft for five thousand pounds (£5,000), and another jeweler a draft for two thousand pounds (£2,000) (Trans. p. 93). Thus, within a short space of time relator drew drafts aggregating eighty-seven hundred pounds (£8,700) on a drawee upon whom he knew he had no right to draw, and who, he admits, was not even a banker. (Trans. p. 92.)

During the course of the examination, depositions taken in Glasgow and London were offered in behalf of the British Consul. This evidence was rejected and a bill of exceptions to the ruling of the Court reserved. (Trans. p. 59.) The ruling was erroneous, the depositions being admissible under Section 5 of Act of August 3, 1882, Chapter 378. This evidence (brought up by supplemental transcript) showed that Collins was without authority to draw, which he admitted; that there is no such firm as E. Curtice & Company; that E. Curtice lives at No. 8 Clarges street, but that is a residence, not a place of business of anyone, and that E. Curtice is not a banker, which is admitted by Collins. It was also established that Collins is not a stockholder, and has no interest in William Collins & Son, Limited, but independently of this evidence, which has been brought up by appellee, the United States Marshal, Collins' own testimony shows guilt.

## 3.

The evidence admitted by the Commissioner is shown to be legal by the certificate annexed thereto, and makes out a *prima facie* case of obtaining by false pretenses,—with relator's testimony an absolute case.

## 4.

There is no merit whatsoever in the objection to the certificates. Each certificate is signed by the Consul General of the United States at Calcutta, and is in the exact language of the Act of Congress of August 3, 1882 (Trans. pp. 14, 37, 77). Besides it was held in *McNamara vs. Henckle*, 226 U. S. 526, that the objection that the depositions used in an extradition case were not properly certified cannot be inquired into on *habeas corpus*. Nor is there any merit in the contention that the acts complained of are not criminal, either in India or in Louisiana; nor in the further contention that, if criminal in India, they are not criminal in Louisiana, it being set up in the the objection that the offenses charged is cheating and not obtaining by false pretenses. The obtaining of property by means of a draft which the drawer knows he is without right to draw is obtaining by false pretenses, and the fact that the draft is to be paid at a future time does not affect the criminality—every draft and every check is payable at a future date—It was a false pretense that relator made when he pretended that he had the right to draw.

## 5 and 6.

On *habeas corpus* in extradition proceedings, the only question that a trial or an appellate court has power to ask



is, has the relator been deprived of some legal right; the question of the weight or sufficiency of the evidence cannot be gone into.

This proposition has been laid down so frequently that it is hardly necessary to quote authorities. Your Honors, however, are referred to the following cases:

*McDonald's case*, Fed. Cases 8772; *Ex parte Zentner*, 188 Fed. 348; *Ex parte Glucksman*, 189 Fed. 1016; *Bryant vs. United States*, 161 U. S. 104; *Orneles vs. Ruiz*, 161 U. S. 503; *Bingham vs. Bradley*, 241 U. S. 516; *McNamara vs. Henckle*, 226 U. S. 521.

These same authorities, and many more that might be quoted, hold that extradition proceedings are in the nature of a preliminary examination. The functions of the Extradition Commissioner are limited to ascertaining whether a *prima facie* case of guilt has or has not been made out. He does not pass upon the question of guilt or innocence. Whatever matters accused may have to urge in defense can only be set up in the courts of the demanding country. The *Charlton case*, 229 U. S. 447, supported by a long line of authorities, puts this proposition outside of the domain of discussion.

It is quite evident that this appeal is wholly frivolous, and that it can have no other purpose than delay. The offenses are all charged to have been committed in the latter part of January, and early in February, 1917; extradition was applied for in the latter part of 1917; *habeas corpus* was asked for in November, 1918, and several months ago was denied and an appeal taken.

The appeal is frivolous as to the two affidavits remanded to the Commissioner, because, whatever error there might have been in refusing to allow relator to testify on the merits has been cured by the remanding.

As to the affidavit on which the writ was refused, the appeal is frivolous because, in that case, relator gave in full his side of the controversy, and convicted himself of the offense of obtaining by false pretenses.

In consideration of the above, it is, therefore, earnestly prayed that this appeal be now dismissed.

DONALDSON CAFFERY,

*Of Counsel for F. M. Miller, U. S. Marshal, Appellee,  
and Tom F. Carlisle, British Consul General.*

May 1, 1919.

IN THE  
**Supreme Court of the United States.**

No. 977.

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CHARLES GLEN COLLINS,  
*Appellant,*

*vs.*

FRANK M. MILLER, U. S. MARSHAL FOR THE EASTERN  
DISTRICT OF LOUISIANA,

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**Brief on Behalf of the Appellant in Opposition  
Appellee's Motion to Dismiss.**

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The questions raised on this appeal involve, among others, the construction of the extradition treaties between the United States and Great Britain; the interpretation of Section 420 of the Indian Penal Code; the construction of statutes of the United States as to proceedings in extradition cases; the admissibility of evidence and competency of witnesses; and what constitutes evidence of criminality under the laws of the State of Louisiana.

The mere statement of these questions which are admittedly involved, would seem to answer the contention of the appellee that the motion to dismiss should be granted on the ground that the appeal is frivolous. That these questions are in-

volved will appear from the printed record, page 3, section 10, sub-sections a to k, Assignment of Errors, record, pages 110 to 113.

Extradition treaties between the United States and Great Britain are the following:

Treaty of August 9, 1842, Article X; 8 U. S. Statutes at Large, p. 576;

Treaty of July 12, 1889, as amended and proclaimed March 25, 1890; 26 U. S. Statutes at Large, p. 1508;

Treaty of December 13, 1900; 32 U. S. Statutes at Large, p. 1864.

The appellant stands charged with having committed the offense of cheating as that offense is defined and prescribed by Section 420 of the Indian Penal Code. This section of the Indian Penal law is as follows:

"Section 420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

1 Stokes, Anglo-Indian Codes, p. 254.

This offense or crime is nowhere mentioned in either of the three treaties between this Nation and Great Britain.

The nearest approach to it appears in the Treaty of December 13th, 1900, but there is a very material difference between the crime therein named and that, the commission of which the accused stands charged.

The Treaty of December 13th, 1900, includes among extraditable crimes that of:

"11. Obtaining of money, valuable securities or other property by false pretenses."

32 U. S. Stat. at Large, p. 1864.

The difference between this crime and that of cheating under Section 420 of the Indian Penal Code is that proof of false representations of a state of things *past* or *present* is essential to a conviction under one, while all that is required under the other is proof of a promise of *future performance* which the promisor *did not intend* to perform.

An illustration of the American doctrine of false pretense is afforded by the case of *State of Louisiana vs. Clement Colly*, 39 La. An. 841, where it was held that in a prosecution for obtaining money or property by false pretenses, the indictment must contain averments that the accused made false representations of a state of things past or present, and that the indictment will not be good if the alleged false representations refer to the future only.

And again, in the same opinion the Supreme Court of Louisiana said:

"A promise is not a pretense within the meaning of the Louisiana Statute, even when the party making the same *does not intend to keep it*."

The Louisiana doctrine is not peculiar in this respect, nor is it limited, in its application, to that State.

It is the same doctrine that is now and has always been applied throughout the Nation.

Wharton, *Am. Crim. Law*, secs. 2085, 2087, 2096, 2112;

2 Bishop on *Crim. Law*, secs. 397, 400, 401.

Under the Indian Penal Code, however, it has been held:

"A. intentionally deceives Z. into a belief that A. means to repay any money that Z. may lend to him, and thereby dishonestly induces Z. to lend him money, A. not intending to repay it. A. *cheats*."

1 Stokes *Anglo-Indian Codes*, p. 252 (illustration f).

And again:

"A. intentionally deceives Z. into a belief that A. means to deliver to Z. a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z. to advance money upon the faith of such delivery. A. *cheats*; but if A., at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract."

1 Stokes, Anglo-Indian Codes, p. 252 (illustration g).

Also that:

"A. receives from B. a Government promissory note, promising to return certain jewels pledged to him, but not intending to do so, and subsequently claims to retain the note for another debt alleged to be due to him by B. A. *cheats*."

3 N. W. p. 17;

1 Stokes, Anglo-Indian Codes, p. 253.

Hence false statement as to a *future fact*, or even a present intention not to do that which one says he will do, may constitute a deception within the meaning of the Indian Offense of Cheating, and consequently one punishable by as much as seven years at hard labor and a fine. This led an Indian Court to observe that:

"The obvious inconveniences resulting from such a doctrine can only be avoided by cleaving to the rule that mere breach of contract is not even *prima facie* evidence of an original fraudulent intention."

Mayne, Commentaries on the Indian Penal Code, 350;

9 Bom. H. C. 448;

See foot note—Stokes, Anglo-Indian Codes, p. 252.

Article X of our Treaty with Great Britain of August 9th, 1842, which is still in force, provides that no person shall be

surrendered by either Nation except upon such evidence of criminality:

"as according to the laws of the place where the fugitive or person so charged, shall be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed."

See—

Pettit vs. Walshe, 194 U. S. 205.

The Treaty provisions, as well as the law of the place where the accused was arrested were both ignored by the Judge, who, acting as commissioner, has held the appellant for the action of the State Department.

Section 1010 of the Revised Statutes of the State of Louisiana of 1870, which section is still in force in that State, provides that if the offense is not punishable by death it will be the duty of the judge or committing magistrate

"to examine on oath, such witnesses as may appear against him (the accused) and reduce their depositions to writing. *It shall also be his duty to receive the voluntary declaration of the person accused*, and the answers which, without promise or threat, he shall make to the questions which the examining judge or magistrate shall put to him, and cause them to be reduced to writing and signed by the prisoner in his presence and that of two witnesses, or if he cannot sign, to mention that circumstance, and to certify the declaration with his signature and that of two witnesses, which declaration thus certified and signed shall be evidence before the grand and petty jury."

In *State vs. Steuart*, 34 La. An. 1037, it was held that the accused is entitled upon preliminary examination before the judge or committing magistrate, to have other witnesses than himself examined in his own behalf.

Section 5270 of the Revised Statutes provides that in extradition cases the accused is to be brought before the judge or commissioner "to the end that the evidence of criminality

may be heard and considered." That "evidence of criminality" means both for the prosecution and for the accused, is made further evident by the Act of Congress of August 3rd, 1882, Chapter 378, section 3, 22 Stats. 215, which provides:

"On the hearing of any case under a claim of extradition by a foreign government, upon affidavit being filed by the person charged, setting forth that there are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, and that he is not possessed of sufficient means and is actually not able to pay the fees of such witnesses, the judge or commissioner before whom such claim for extradition is heard may order that such witnesses be subpoenaed, and in such cases the cost incurred by the process and the fees of witnesses shall be paid in the same manner that similar fees are paid in the case of witnesses subpoenaed on behalf of the United States."

This Act, taken in connection with the Louisiana law, certainly makes it clear that the accused is entitled not only to testify himself as to the question of criminality, but is also entitled to produce witnesses to testify in his behalf.

*In re Ferez*, 7 Blatchford, 34;

*In re Kelly*, 25 Fed. Rep. 268;

*In re Charleston*, 34 Fed. Rep. 531.

That these rights were disregarded by the Court below is clearly shown from the record, pages 61 to 66 and 98, and by the certificate of the Court on page 104 of the Record.

There is no contention on the part of the appellee that in two of the cases any opportunity at all was given to the appellant to testify on his own behalf or to offer other evidence in his own behalf. In the third case the contention of the appellee that the appellant by his own testimony conclusively shows his guilt, is not borne out by the record, even the incomplete record wherein the judge below excluded all the material part



of the testimony of the appellant on the question of criminality.

The testimony, we respectfully submit, shows that the transactions forming the basis for the charges were all simply commercial transactions in which, through business misfortune, the appellant was unable to carry out his contract of purchase. The appellant offered himself as a witness to further establish this fact and also offered other evidence in support of the same contention. This evidence was excluded by the Court and this, we submit, constitutes error.

It is equally clear that incompetent and irrelevant testimony against the appellant was admitted in evidence over the objection of the appellant. (Record, pp. 55, 56, 58, 88, 89 and 104.)

Whether we are right in this contention or not, it is certainly obvious that the questions involved are not frivolous questions and that the appellant is entitled to be heard in support of the contentions he has raised on this appeal.

Respectfully submitted,

J. ZACH. SPEARING,

J. KEMP BARTLETT,

*Attorneys for Appellant.*